



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 1901

PRINTERS NO. 3885

PRIME SPONSOR: Everett

COST / (SAVINGS)

FUND	FY 2011/12	FY 2012/13
General Fund	\$0	\$6,699,939,500

SUMMARY: House Bill 1901 makes numerous changes and adds sections to the Public School Code. Included among these are provisions implementing the 2012 General Appropriations Act.

ANALYSIS: The following sections of the School Code are affected:

Section 102: Adds a definition of “Keystone Exam” to Section 102 of the School Code.

Section 111: Amends the School Code to make technical changes concerning background checks of prospective employees and conviction of employees of certain offenses.

Sections 118 & 221.1: Adds to the list of identifying information that the Department of Education is allowed to collect from institutions of higher education by including information that is voluntarily provided by the institution.

Sections 119, 120, 751, 807.1, 1913-B.1, 2003-A.1 & 2010-A: Adjusts the effective date of changes to school district bid limits and removes the requirement that school districts obtain the approval of the Secretary of Education when they select a bid for emergency repairs to a school building. Only the school district’s board of directors must approve the emergency bid. However, the district must provide notice to the Secretary of Education, in a form and manner determined by the Secretary, that an emergency has occurred and a bid has been selected under the emergency bid process.

Section 121: Requires that, subject to annual appropriation and by the 2020-2021 school year, the Department of Education must develop Keystone Exams in algebra I & II, literature, biology, English composition, geometry, United States and world history, chemistry, and civics and government.

Section 616: Gives school districts the authority to reopen their budget due to changes in federal and state allocations.

Section 617: This is a new section entitled Intergovernmental Agreements for School Security and Safety to the Public School Code. It allows school districts to enter into agreements with other political subdivisions to provide for the safety and security of the school. The school district may use school funds to share costs with municipalities and counties for such expenses as benefits and salaries of school

resource officers and probation officers. Such officers are not required to be employees of the school district and may be employees of other political subdivisions.

Section 732.1: This new section places a moratorium on the acceptance of new school building construction or reconstruction project applications. The moratorium will not apply to applications received by August 1, 2012. The section also requires the Department of Education, in consultation with school district officials and the General Assembly, to conduct a review of the Department's current process for reimbursement of building projects and make recommendations to the General Assembly by May 1, 2013.

Section 1003: Requires the Department of Education, upon request, to confirm an individual satisfies the eligibility requirements for election or appoint as a superintendent. Requires the department to issue the commission when the individual is hired. Allows an individual who hold a juris doctorate degree from an accredited law school with four years relevant experience to be eligible for election or appointment as a superintendent. Provides for the provisions to sunset in three years, but allows those commissioned to retain their commission.

Sections 1073, 1073.1, 1076, 1077, 1078, 1080 & 2104: The changes to these sections all impact superintendent and assistant superintendent contracts. New requirements are established in the Public School Code for superintendent and assistant superintendent contracts. All contracts will be subject to the Right-to-Know Law and contracts for an individual who has no prior experience may be no more than three years in duration. Minimum requirements for the content of superintendent contracts are also established. Limits are placed on compensation under severance agreements. If a severance agreement takes effect two years or more prior to the end of the contract term, the agreement cannot exceed the value of one year's compensation and benefits. If a severance agreement takes effect less than two years prior to the end of the contract term, the agreement cannot exceed the value of one-half the total compensation due for the remainder of the contract.

Section 1073.1 is a new section concerning performance reviews for superintendents and assistant superintendents. It requires a contract to include objective performance standards which are mutually agreed to and may be based on achievement of annually measurable objectives established by the school district; achievement on the Pennsylvania System of School Assessment tests; achievement on Keystone Exams; student growth as measured by the Pennsylvania Value Added Assessment System; attrition rates or graduation rates; financial management standards; standards of operation excellence; or any other criteria deemed relevant by the parties to the contract. It requires the school board annually conduct a written performance assessment and post the objective performance standards contained in the contract, the date of the performance assessment and whether or not the superintendent has met the standards on its publically accessible Internet website. It also provides that the State Board of Education may promulgate regulations in order to implement the section related to the performance review.

These changes also provide for the termination of contracts and require school boards to publically disclose, at the next regularly scheduled meeting, the cause or reason for the termination of a superintendent contract.

These changes also repeal provisions related to the length of contracts in the school district of the first class.

Section 1123: This section is amended to require the Secretary of Education to create a rating tool to measure the performance of professional staff in all school districts, intermediate units, area vocational-technical schools, charter schools, and cyber charter schools.

The classroom teacher rating tool must give consideration to classroom observation and practice models related to student performance. Student performance will comprise 50% of the overall rating and must be based upon multiple measures of student achievement. The Department of Education would have until June 30, 2013 to develop the rating tool for classroom teachers.

The principal rating tool must give consideration to planning and preparation, school environment, delivery of service, and professional development. Student performance will comprise 50% of the overall rating and must be based upon multiple measures of student achievement. The rating tool nonteaching professionals must give consideration to planning and preparation, school environment, delivery of service, and professional development. Student performance in the school building of the nonteaching professional will comprise 20% of the overall rating. The Department of Education would have until June 30, 2014 to develop the rating tool for principals and nonteaching professionals.

Each rating tool must characterize the performance of the evaluated employee as either distinguished, proficient, needs improvement, or failing.

Professional employees shall be rated at least annually and temporary professional employees at least twice annually.

The Department of Education indicates it will be able meet the deadlines in the bill and will incur costs associated with the implementation requirements. The estimated implementation cost for fiscal year 2012-13 is **\$3,717,000**. These costs are accounted for in the Department's 2012-13 budget. Costs for fiscal year 2013-14 are estimated at \$2,192,000. Costs for fiscal years 2014-15 and 2015-16 are estimated at \$1,292,500 in each year. These estimates are based on providing the rating tools to all school districts in the Commonwealth.

Section 1124: Concerning the curtailment or alteration of an educational program, school districts no longer need the approval of the Department of Education. The school district need only notify the Department and the Department must place these notifications on its website.

Section 1205.1: Removes the requirement that a school district's professional education plan meet the needs of its strategic plan.

Section 1308: Makes changes concerning liability for tuition and enforcement of payment for institutions and homes that care for orphans and other children. In the event that a district in which such an institution is located contracts with a third party to provide educational services to children who are residents of the institution, the third party may seek payment of tuition directly from the district of residence. The third party shall notify the district in which the institution is located of its payment request to the district of residence and, if the district of residence makes payment to the third party, the third party shall notify the district in which the institution is located. Such payment to the third party shall satisfy the payment obligation of the district in which the institution is located. The district so charged with tuition by the third party may file an appeal with the Secretary of Education if there is a dispute.

Section 1337.1: Deletes the School Nutrition Incentive Program from the School Lunch and Breakfast Reimbursement.

Section 1302.1-A: Makes a technical fix to the language concerning the school safety model memorandum of understanding.

Sections 1422.1 & 1524: Eliminates references to a school district strategic plan from sections concerning local wellness policies and recognition of American Sign Language.

Section 1439: Establishes a new section that requires a school entity to have, at each school, or in the case of a cyber charter school at each location, under its jurisdiction, except in extenuating circumstances, one person certified in the use of cardiopulmonary resuscitation during regular school hours when school is in session and students are present.

Sections 1501-G through 1508-G: Establishes a new Article XV-G to authorize open campus initiatives between school districts.

An open campus initiative is a cooperative agreement between school districts which allows students to participate in courses not currently available in their resident school district. Courses offered through an open campus initiative may be delivered outside of a regular school building in whole or in part using technology such as the Internet, video conferencing or other electronic means.

The article specifies the time during which a student participates in open campus initiative courses shall be considered to be compliant with compulsory education requirements and that a student participating in open campus initiative courses must be engaged in at least 990 hours of instruction at the secondary level and 900 hours of instruction at the elementary level.

It requires the Department of Education provide technical assistance as needed to school districts establishing open campus initiatives.

It requires the cooperative agreement establishing an open campus initiative to outline the following policies: (1) grading; (2) credit; (3) promotion; (4) participation; (5) participation by students from nonparticipating school entities, including a fee schedule for determining tuition charges for those students; (6) use and distribution of tuition revenue; (7) discipline; (8) attribution of student data; (9) sharing of costs; and, (10) adding or removing courses.

The article provides that students attending a nonparticipating school entity may participate in an open campus initiative. It defines “nonparticipating school entity” as a school district, which is not party to the cooperative agreement between school districts, a charter school, cyber charter school, nonpublic school or home education program.

It also provides that for the purpose of Commonwealth reimbursements, a student participating in an open campus initiative shall be considered to be enrolled in the school district, charter school, cyber charter school, nonpublic school or home education program which determines the student’s eligibility for participation in the open campus initiative.

Additionally, it requires the board of school directors in each school district participating in an open campus initiatives to adopt the cooperative agreement by a majority vote and requires all policies related to an open campus initiative to be posted on the participating school districts’ publically accessible Internet websites.

Section 1607: Removes the cap on the number of students the Duquesne school district can send to a school district that has agreed to accept their students on a tuition basis. Provides for the 2012-2013 school year and each year thereafter, the tuition paid for students that are reassigned to be the greater of \$10,000 or the product of the tuition rate established in the prior school year and the greater of the percentage increase in the total budget revenues for the distressed school district, or the index established

in the Taxpayer Relief Act for the distressed school district. Requires the Commonwealth to pay a \$500 subsidy for each reassigned student entering grades seven, eight and nine in fiscal years 2012-2013 and 2013-2014. These provisions will cost the Commonwealth **\$68,500** in fiscal year 2012-2013 and 2013-2014. The Department of Education projects 137 students reassigned from Duquesne School District in grades seven, eight and nine.

Article XVI-C: This new article concerns the disclosure of Interscholastic Athletic Opportunities. It requires public school entities report athletic opportunities afforded male and female students annually on a disclosure form established by the Department of Education. It requires each school entity make its completed disclosure form available for public inspection during regular business hours and on its Internet website. It requires each school entity provide notice to its students and other affected individuals when the form is completed and available for review by posting notice on school bulletin boards, in the school newspaper; or by other electronic means. It requires the Department of Education to provide for the distribution of the disclosure forms through its Internet website, provide technical assistance to school entities; make copies of all submitted disclosure forms available for public inspection on its Internet website, and prepare and submit an annual report to the General Assembly regarding compliance with the disclosure requirements and summarizing the information submitted regarding interscholastic opportunity for the treatment of each gender by race and ethnic group and other information as the department deems relevant. It also provides for the information that must be reported on the disclosure form. These provisions will require the Department to devote 50 percent of the staff time of an Education Associate. Costs related to the salary and benefits for this employee are estimated to be **\$36,000** annually.

Section 1704-B: Continues provisions of the Empowerment Act, related to Commonwealth Partnership School Districts, which are scheduled to expire June 30, 2012. Provides Commonwealth Partnership School Districts the following authority: (1) to cancel or renegotiate any contract, other than collective bargaining agreements, for the purpose of making necessary economies in the operation of the schools; (2) to reassign, transfer, or suspend administrators, mainly principals, based on an unsatisfactory review and evaluation without considering seniority or providing for a hearing; and, (3) to dispose of unused and unnecessary lands and buildings in excess of 25 years in age by negotiated sale, provided experts verify the value is equal to or greater than what could be received by sealed bid or by entering into agreements with an urban redevelopment authority. A Commonwealth Partnership School District is defined as a school district that the Secretary of Education determined on or after July 22, 2006, and not later than September 9, 2006 to have met the following criteria: (1) a decline of 15 percent or more in enrollment during the preceding five years; (2) a loss in revenue during the immediately preceding three years due to the statutory removal of one or more sources of revenue; and, (3) a 2004-2005 equalized millage rate greater than 27. The School District of Pittsburgh is the only school district designated a Commonwealth Partnership School District.

Section 1913-A: Provides for the disbursement of the Community College appropriation in the same manner and amounts in 2012-2013 as was provided in 2011-2012. This will require the expenditure of **\$212,167,000**, which is provided for in the General Appropriation bill for 2012-2013.

Section 2319: Provides for the disbursement of the state Public Library Subsidy in the same manner and amounts in 2012-2013 as was provided in 2011-2012. This will require the expenditure of **\$53,507,000**, which is provided for in the General Appropriation bill for 2012-2013.

Section 2502.51: This new section states that for the 2012-2013 fiscal year the Commonwealth shall pay to each school district a basic education funding allocation which shall consist of an amount equal to the basic education funding allocation for the 2011-2012 fiscal year. It also provides for the following

supplements for distressed school districts: English Language Learner, Extraordinary Charter School Enrollment, Second Class County School District, Second Class School District, Increasing Aid Ratio, Personal Income, Small District Increasing Aid Ratio, and Small District. Provides for any undistributed funds to be deposited into the Financial Recovery School District Transitional Loan Account to assist distressed school districts. This amounts is estimated to be \$10,000,939. This will require the expenditure of **\$5,403,629,000**, which is provided for in the General Appropriation bill for 2012-2013.

Sections 2509.1 & 2509.5: Provides for the disbursement of the state Special Education Subsidy in the same manner and amounts in 2012-2013 as was provided in 2011-2012. This will require the expenditure of **\$1,026,815,000**, which is provided for in the General Appropriation bill for 2012-2013.

Section 2510.2: This new section allows the Department of Education, for the 2012-2013 fiscal year, to use up to \$4,500,000 of undistributed funds not expended, encumbered or committed from appropriations for grants and subsidies, to assist school districts certified on or before June 30, 2010 as education empowerment districts.

Section 2574: Adds language explicitly stating that nothing in this section nor anything in Department of Education guidelines can prevent a school district from receiving reimbursement for qualifying projects under this section if the school district elects not to remove any relocatable or modular classroom utilized after the completion of a building project. The term “relocatable or modular classroom” would mean a classroom not of a permanent nature which meets the criteria and specifications of the Department of Education.

Section 2599.2: Permits the Department of Education to distribute Pennsylvania Accountability Grants on a pro rata basis in fiscal year 2012-2013 if insufficient funds are appropriated.

Section 2599.4: Creates the Targeted Industry Cluster Certificate Scholarship Program within the Pennsylvania Higher Education Assistance Agency. The Agency shall grant awards based upon available resources.

FISCAL IMPACT: Enactment of this legislation will cost the Commonwealth \$6,699,939,500 in 2012-2013. This impact consists of \$212,167,000 for Community Colleges, \$53,507,000 for Public Libraries, \$5,403,629,000 for a basic education subsidy for school districts, \$1,026,815,000 for a special education subsidy for school districts, \$3,717,000 for the development of the professional employee rating tool, \$68,500 for the removal of the cap on students from the Duquesne school district, and \$36,000 for the staff person devoted half-time to the provisions on interscholastic athletic opportunity disclosure. These funds are all contained in the General Appropriation bill for 2012-2013.

PREPARED BY: Jeff Miller
House Appropriations Committee (R)

DATE: June 29, 2012

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.