

THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

## No. 1231

Session of  
1987

INTRODUCED BY WESTON, WOGAN, O'BRIEN, KENNEY, J. TAYLOR AND  
PERZEL, APRIL 29, 1987

REFERRED TO COMMITTEE ON EDUCATION, APRIL 29, 1987

AN ACT

1 Relating to the public school system in cities of the first  
2 class; creating a new school district to be operated and  
3 managed pursuant to the provisions of the home rule charter  
4 of the city of the first class; creating an appointed  
5 independent Commission on Public Education responsible for  
6 the management of the school district within the framework of  
7 the home rule charter; providing for a superintendent  
8 appointed by the commission, subject to the mayor's approval;  
9 preserving certain laws with respect to the indebtedness of  
10 the district, tax levies, personnel policies, employees'  
11 retirement rights and collective bargaining; and making  
12 certain repeals under certain terms and conditions.

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24 The General Assembly of the Commonwealth of Pennsylvania  
25 hereby enacts as follows:

26 CHAPTER 1  
27 GENERAL PROVISIONS

28 Section 101. Short title.

29 This act shall be known and may be cited as the Public  
30 Education for Home Rule Cities of the First Class Act.

1 Section 102. Declaration of policy.

2 The General Assembly finds and declares as follows:

3 (1) The present method of operating the system of public  
4 education in cities of the first class is not practical due  
5 to the absence of financial accountability and coordination  
6 between the management of a school district and the  
7 government of a city of the first class.

8 (2) In light of the constitutional mandate and of the  
9 urgent needs and welfare of the thousands of public school  
10 children in cities of the first class, it is necessary to  
11 make fundamental changes in the structure for the  
12 administration, operation and management of the school  
13 districts of the first class.

14 (3) This major structural reorganization will ensure the  
15 revitalization and long-term health of such school districts  
16 and quality education for all of its school children.

17 Section 103. Definitions.

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

21 "City." A home rule city of the first class.

22 "Commission." The Commission on Public Education created by  
23 this act.

24 "Home rule city of the first class." A city that has adopted  
25 a home rule charter pursuant to the act of April 21, 1949  
26 (P.L.665, No.155), known as the First Class City Home Rule Act.

27 "Professional employee." A professional employee as defined  
28 in the act of March 10, 1949 (P.L.30, No.14), known as the  
29 Public School Code of 1949.

30 "School district." A school district, which shall be a

1 district of the first class, created and established by this act  
2 to replace an existing school district.

3 "Superintendent." The Superintendent of Public Education  
4 created by this act.

5 Section 104. The school district.

6 A new school district is hereby created and established in  
7 home rule cities of the first class, to be known as "The School  
8 District of (name of the home rule city of the first class)."

9 Section 105. Successor of existing school district.

10 The school district shall:

11 (1) Succeed directly the now existing school district  
12 for all purposes, including, but not limited to, receipt of  
13 all grants, gifts, appropriations, subsidies or other  
14 payments.

15 (2) Take over from the now existing school district all  
16 assets, property (real and personal, tangible and  
17 intangible), all easements and all evidences of ownership, in  
18 whole or in part, and all records and other evidences  
19 pertaining thereto.

20 (3) Assume all debt and other contractual obligations of  
21 the now existing school district, any long-term debt to be  
22 issued, secured and retired in the manner now provided by  
23 law. Nothing contained in this act shall be construed as an  
24 assumption by the city of the debt, contractual obligations,  
25 or any other obligation or liability of the school district.

26 Section 106. Administration, management and operation of school  
27 district.

28 The administration, management and operation of the school  
29 district established under this act, which would otherwise be  
30 vested by the act of March 10, 1949 (P.L.30, No.14), known as

1 the Public School Code of 1949, in a board of school directors,  
2 is hereby vested in the city. The city shall administer, manage  
3 and operate the school district subject and pursuant to the  
4 provisions of this act and of the home rule charter of the city,  
5 with the following exceptions:

6 (1) A school fund to be used only for school district  
7 purposes shall be established in the city treasury. This fund  
8 shall be separate and in no manner commingled with other  
9 funds in the treasury, and there shall be no borrowing or  
10 lending by or from the school fund by or from any other fund  
11 in the city treasury. All obligations and liabilities assumed  
12 or incurred by the school district, voluntarily or by  
13 operation of law, shall be obligations and liabilities of the  
14 school district and not of the city, and the obligations and  
15 liabilities shall be paid or otherwise satisfied only out of  
16 the school fund.

17 (2) The finances and affairs of the school district  
18 shall be subject to preaudit, desk audit and postaudit and to  
19 an annual postaudit, all of which shall be conducted by the  
20 city controller.

21 (3) Employees of an existing school district abolished  
22 by this act shall become employees of the school district  
23 created hereunder and not of the city. The employment,  
24 qualifications, status, tenure and compensation of school  
25 district employees shall be regulated by the commission as  
26 provided in section 202.

27 (4) The employees of the school district shall retain  
28 all rights with respect to pensions and retirement and  
29 continue to be under and subject to existing laws with  
30 respect to pensions and retirement.

1           (5) The mayor shall sign collective bargaining  
2       agreements with employees of the school district.

3       Section 107. Commonwealth not liable for liabilities.

4       All obligations, liabilities and indebtedness of the school  
5       district or the now existing school district, whether assumed or  
6       incurred voluntarily or by operation of law, shall remain  
7       obligations, liabilities or debts of the school district or now  
8       existing school district and not the Commonwealth of  
9       Pennsylvania.

10      Section 108. Administration, management and operation of  
11                               intermediate units.

12      An intermediate unit coterminous with a school district of  
13      the first class shall be administered, managed and operated in  
14      the same manner as the school district is operated under and  
15      subject to section 106.

16      Section 109. Imposition and levy of taxes.

17      The council of the city shall impose and levy the taxes  
18      currently or hereinafter authorized for school district  
19      purposes, except that no ordinance may authorize the imposition  
20      of a tax for school purposes on the wages, salary or net income  
21      of any person not a resident of the school district.

22      Section 110. Annual budget.

23      The council of the city shall, at least 15 days prior to the  
24      time final action is taken on any budget, publish notice that  
25      the proposed budget has been prepared and is open to public  
26      inspection at the office of the city director of finance.  
27      Publication shall be by advertisement at least once in two  
28      newspapers of general circulation printed in the city.

29      Advertisement shall include a notice of public hearing on the  
30      proposed budget, scheduled for at least ten days before final

1 action is taken on the budget. Within 15 days after the adoption  
2 of the budget, the council of the city shall file a copy of the  
3 same, prepared on a uniform form prepared and furnished by the  
4 Department of Education, in the office of the Department of  
5 Education. City council shall, after adoption of the school  
6 district budget, levy the taxes necessary to fund the adopted  
7 budget.

## 8 CHAPTER 2

### 9 COMMISSION ON PUBLIC EDUCATION

10 Section 201. Commission on Public Education.

11 (a) Establishment.--There is hereby established in home rule  
12 cities of the first class an independent Commission on Public  
13 Education through which the city shall administer, operate and  
14 manage the school district.

15 (b) Powers, duties and limitations.--The commission shall  
16 have the powers, duties and limitations of an independent board  
17 or commission of the executive and administrative branch of the  
18 city under and subject to the provisions of the home rule  
19 charter of the city.

20 (c) Rules and regulations.--The powers, duties and  
21 procedures of the commission shall be set forth in rules and  
22 regulations prescribed by the commission under and subject to  
23 applicable law and the provisions of the home rule charter of  
24 the city.

25 Section 202. Personnel policies.

26 (a) Table of district organization.--The commission shall  
27 establish a table of organization setting forth a roster of  
28 positions for each principal administrative unit of the school  
29 district and shall require the superintendent to report monthly  
30 any changes made in the table.

(b) Employees subject to regulation of incidents of employment.--The commission shall adopt regulations based on merit principles and scientific methods governing all incidents of employment, including appointment, promotion, demotion, removal and discipline for all employees of the school district except the following:

(1) Deputy superintendents, associate superintendents, district superintendents, directors of departments responsible directly to the superintendent or to any deputy superintendent, and the personal assistants as the superintendent may require.

(2) Persons employed by contract to perform special services for the school district where the superintendent certifies that the services cannot be performed by school district employees.

(3) Persons temporarily appointed or designated to make or conduct a special inquiry or study or to perform a special service of a unique character which cannot or should not be performed by regular school district employees.

(4) Not more than 1% of the professional employees of the school district, who may be exempted by the superintendent with the consent of the commission.

(c) Employment and personnel plans.--The personnel regulations adopted by the commission shall provide for the preparation, maintenance and revision of a position classification plan and a pay plan for all employees, and of policies and procedures for recruitment, examinations, promotions, eligibility list and certifications, provisional and emergency appointments, suspension, discharge or reduction in rank, hours of work, holidays, leaves and vacations, employee



1 hearings and such other matters as may be necessary or proper.  
2 Copies of the personnel regulations shall be available for  
3 public information and distribution at all times.

4 (d) Employees rights.--The commission shall, in its  
5 personnel regulations, preserve and safeguard all rights of  
6 employment, status and tenure of all employees of the existing  
7 school district which exists immediately prior to the adoption  
8 of this act and of employees of any other governmental agency  
9 who may become employees of the school district by virtue of the  
10 operation of the provisions of this act, consistent with law and  
11 the requirements of a fair and effective system of personnel  
12 administration, except that nothing in this section shall apply  
13 to collective bargaining or to collective bargaining agreements.  
14 Section 203. Members of commission.

15 (a) Membership.--There shall be 11 members of the  
16 commission. Ten members shall be appointed by the Educational  
17 Nominating Panel and one member shall be appointed by the mayor  
18 of the city. Each member appointed by the panel shall represent  
19 a different city council district from the other members and  
20 shall be a resident of that district. Members of the commission  
21 shall be registered electors and residents of the city  
22 continuously from the effective date of their appointment  
23 throughout the duration of their terms. No person shall be  
24 eligible to be appointed to more than three consecutive terms.  
25 Commission appointments shall be confirmed by a majority vote of  
26 the city council.

27 (b) Term.--The members shall serve a term concurrent with  
28 the term of office of the mayor. Upon completion of the term of  
29 office of a member of the commission, that member shall continue  
30 to serve until his successor is qualified.

1 Section 204. Vacancies on commission.

2 Vacancies on the commission shall be filled for the balance  
3 of the unexpired term in the same manner as original  
4 appointments.

5 Section 205. Method of selecting commission.

6 (a) Appointment by mayor.--The mayor of the city shall  
7 appoint an Educational Nominating Panel consisting of 13  
8 members. Members of the panel shall be registered electors and  
9 residents of the city and shall serve for terms of two years  
10 from the dates of their appointment, or until the completion of  
11 the term of the mayor of the city who appointed them, whichever  
12 first occurs.

13 (b) Specific appointments.--Nine members of the Educational  
14 Nominating Panel shall be the highest ranking officers of  
15 citywide organizations or institutions which are, respectively:

16 (1) A labor union council or other organization of  
17 unions of workers and employees organized and operated for  
18 the benefit of such workers and employees.

19 (2) A council, chamber or other organization established  
20 for the purpose of general improvement and benefit of  
21 commerce and industry.

22 (3) A public school parent-teachers association.

23 (4) A community organization of citizens established for  
24 the purpose of improvement of public education.

25 (5) A federation, council or other organization of  
26 nonpartisan neighborhood or community associations.

27 (6) A league, association or other organization  
28 established for the purpose of improvement of human and  
29 intergroup relations.

30 (7) A nonpartisan committee, league, council or other

1 organization established for the purpose of improvement of  
2 governmental, political, social or economic conditions.

3 (8) A degree-granting institution of higher education  
4 whose principal educational facilities are located within the  
5 city.

6 (9) A council, association or other organization  
7 dedicated to community planning of health and welfare  
8 services or of the physical resources and environment of the  
9 city.

10 (c) General appointments.--In order to represent adequately  
11 the entire community, the four other members of the Educational  
12 Nominating Panel shall be appointed by the mayor of the city  
13 from the citizenry at large, except that city employees shall  
14 not be eligible to serve on the panel.

15 (d) Alternate method for making specific appointments.--In  
16 the event no organization as described in subsection (b) exists  
17 within the city, or in the event there is no such organization  
18 any one of whose officers is a registered voter of the city, the  
19 mayor of the city shall appoint the highest ranking officer who  
20 is a registered elector of the city from a similar organization  
21 or institution which qualifies under subsection (b).

22 (e) Vacancies.--A vacancy in the office of member of the  
23 Educational Nominating Panel shall be filled for the balance of  
24 the unexpired term in the same manner in which that member was  
25 selected.

26 (f) Administrative powers.--The Educational Nominating Panel  
27 shall elect its own officers and adopt rules of procedure.  
28 Section 206. Organization of Educational Nominating Panel.

29 (a) Time.--The mayor of the city shall appoint and convene  
30 the Educational Nominating Panel not later than 30 days after

1 the certification of his election to office and whenever a  
2 vacancy occurs in the membership of the commission.

3 (b) Nominations for commission.--The panel shall, within 30  
4 days, submit to the mayor three names of qualified persons for  
5 each position on the commission which is to be filled. If the  
6 mayor wishes additional names, he shall notify the panel within  
7 ten days and the panel shall, within 20 days, send to the mayor  
8 an additional list of three qualified persons for each position  
9 to be filled. The mayor shall make an appointment within ten  
10 days.

11 (c) Additional independent nominations.--The panel shall  
12 invite business, civic, professional, labor and other  
13 organizations, as well as individuals, situated or resident  
14 within the city, to submit for consideration by the panel the  
15 names of persons qualified to serve as members of the  
16 commission.

17 (d) Prior service.--Nothing in this act shall preclude the  
18 panel from recommending and the mayor of the city from  
19 appointing or nominating persons who have previously served on  
20 any board of public education or commission, subject to the  
21 provisions of section 203.

22 Section 207. Organization of commission.

23 (a) Organization meeting.--The commission shall hold an  
24 organizational meeting within 14 days of the appointment of all  
25 of the members of the commission and annually thereafter.

26 (b) Public meetings.--The commission shall hold public  
27 meetings not less often than once every two months during the  
28 school year.

29 CHAPTER 3

30 SUPERINTENDENT OF PUBLIC EDUCATION

1 Section 301. Appointment, term and compensation.

2 (a) Appointment.--A Superintendent of Public Education shall  
3 be appointed by the commission with the approval of the mayor of  
4 the city.

5 (b) Term.--The superintendent shall be appointed to serve  
6 for a term of four years or the unexpired term of the mayor of  
7 the city, whichever is lesser, to commence within 120 days after  
8 the commencement of the term of the mayor of the city, except  
9 that the term of the first superintendent appointed under this  
10 act shall commence within 30 days after the commencement of the  
11 term of the members of the first commission or on July 1, 1987,  
12 whichever shall last occur. There shall be no limit to the  
13 number of terms a superintendent may serve.

14 (c) Vacancies.--A vacancy in the office of the  
15 superintendent shall be filled for the balance of the unexpired  
16 term in the same manner as the original appointment.

17 (d) Removal.--The superintendent shall serve at the pleasure  
18 of the commission and may be removed at any time by the  
19 commission, with the approval of the mayor, so long as the  
20 commission specifies in writing the reason for removal. If, at  
21 the superintendent's request, the Secretary of Education finds,  
22 after notice and an opportunity for a hearing, that the  
23 commission's charges were not cause for dismissal, the secretary  
24 may order that the superintendent be paid for all or part of the  
25 remainder of his term.

26 Section 302. General powers and duties.

27 (a) Executive duties.--The superintendent shall be the chief  
28 executive and administrative officer of the commission and shall  
29 be responsible for:

30 (1) The execution of all actions of the commission.

1           (2) The administration and operation of the public  
2       school system subject to the rules, regulations and policies  
3       of the commission.

4           (3) The supervision of all matters pertaining to  
5       instruction in all schools under the direction of the  
6       commission.

7       (b) Participation on commission.--The superintendent, who  
8       shall be secretary of the commission, shall attend all meetings  
9       of the commission and may attend all meetings of any commission  
10      committees. The superintendent shall have the right to advise on  
11      any question or matter under consideration but shall have no  
12      right to vote.

13      (c) Performance of school district business.--Under and  
14      subject to the home rule charter of the city and this act, the  
15      superintendent shall perform such duties pertaining to the  
16      business of the school district as are required by law and as  
17      the commission may direct.

18      (d) Power to recommend appointment of assistants.--Upon  
19      recommendation of the superintendent, the commission shall have  
20      the authority to appoint and fix the compensation of deputy  
21      superintendents, associate superintendents, district  
22      superintendents, assistant district superintendents, directors  
23      of departments responsible directly to the superintendent or to  
24      any deputy superintendent, and the personal assistants as he  
25      deems consistent with the educational needs of the school  
26      district.

27      (e) Power to assign employees.--The superintendent shall  
28      have the authority to assign and reassign all professional and  
29      classified employees of the school district, consistent with the  
30      provisions of this act and the laws of the Commonwealth.

1 (f) Annual report.--The superintendent shall report annually  
2 to the commission all assignments and reassignments of  
3 professional and classified employees made during the school  
4 year.

#### 5 CHAPTER 4

#### 6 SAVINGS PROVISIONS

7 Section 401. Applicability of State laws and regulations.

8 The administration, management and operation of any school  
9 district established under this act shall be governed by each  
10 and every provision of this act and the home rule charter of the  
11 city. Insofar as this act or the home rule charter of the city  
12 does not relate, govern or provide for a matter involving the  
13 administration, management or operation of the school district,  
14 and insofar as not in conflict or inconsistent with the  
15 provisions of this act or the home rule charter, the school  
16 district shall also be subject to all laws relating to school  
17 matters and to all rules and regulations promulgated by the  
18 Department of Education under the authority of such laws.

19 Section 402. Local option.

20 This act shall remain in effect unless and until the electors  
21 of the city determine to otherwise regulate the public schools  
22 in the school district by amending the home rule charter of the  
23 city by referendum in accordance with the procedures set forth  
24 in the act of April 21, 1949 (P.L.665, No.155), known as the  
25 First Class City Home Rule Act.

26 Section 403. Audits.

27 If the provisions relating to combining the preaudit and  
28 postaudit of the finances and affairs of the school district in  
29 the office of the city controller shall be held to be invalid,  
30 the preaudit shall be performed by the city controller and the

1 postaudit shall be performed by the city director of finance.

2 CHAPTER 5

3 MISCELLANEOUS PROVISIONS

4 Section 501. Abolition and transition.

5 (a) Certain school districts of the first class abolished.--  
6 All school districts of the first class created pursuant to the  
7 act of August 9, 1963 (P.L.643, No.341), known as the First  
8 Class City Public Education Home Rule Act, shall be abolished  
9 100 days after the effective date of this act.

10 (b) Certain boards of education of first class districts  
11 abolished.--Each board of education of each home rule school  
12 district of the first class existing on the effective date of  
13 this act shall be abolished 100 days after the effective date of  
14 this act.

15 (c) Membership of interim boards.--The members of the  
16 present board of education of home rule school districts in  
17 cities of the first class may remain in office until 100 days  
18 after the effective date of this act.

19 (d) Appointment of first commission.--The first commission  
20 shall be appointed in accordance with the provisions of Chapter  
21 2 in the same manner as if there had been nine vacancies on the  
22 effective date of this act.

23 (e) Vacancies on interim boards.--Should any vacancies in  
24 the present boards of education of home rule school districts of  
25 cities of the first class exist during the period between the  
26 effective date of this act and 100 days following its effective  
27 date, the vacancies shall be filled by members of the commission  
28 upon their appointment to the commission, and the members shall  
29 thereafter serve on the board and commission concurrently until  
30 the board ceases to exist.



(f) Interim powers and duties of first commission.--During the period between the effective date of this act and 100 days following its effective date, the commission, immediately upon the appointment of its members, shall have the exclusive power and authority to:

(1) Prepare the operating and capital budgets of the school district for the fiscal year ending June 30, 1988.

(2) Plan the instructional program and organization of the school district for the fiscal year ending June 30, 1988.

(3) Contract or otherwise incur obligations or liabilities to be paid or otherwise performed, in whole or in part, beyond June 30, 1987.

(g) Cooperation between successive administrations.--During the period between the effective date of this act and 100 days following its effective date, the present boards of education and superintendents of home rule school districts in cities of the first class shall have the duty to cooperate with the city and the commission to the fullest extent necessary or convenient to insure an orderly transition from the board to the city of the administration, management and operation of the school district, including, but not limited to, providing any services and information reasonably requested in the exercise by the commission of the power and authority conferred in subsection (f).

Section 502. Repeals.

(a) Specific repeals.--The following acts and parts of acts are repealed:

Section 18(a)(6) of the act of April 21, 1949 (P.L.665, No.155), known as the First Class City Home Rule Act.

Act of August 9, 1963 (P.L.643, No.341), known as the First

1 Class City Public Education Home Rule Act.

2 (b) Home rule charter.--All parts of any home rule charter  
3 adopted pursuant to the act of August 9, 1963 (P.L.643, No.341),  
4 known as the First Class City Public Education Home Rule Act,  
5 are revoked.

6 Section 503. Effective date.

7 This act shall take effect immediately.