

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 356 Session of
1993

INTRODUCED BY TANGRETTI, BELFANTI, TIGUE, GIGLIOTTI, STABACK,
VAN HORNE, TRELLO, COLAFELLA, McCALL, KASUNIC, STAIRS, HESS,
VEON, KIRKLAND, MELIO, COY, OLASZ, M. COHEN AND DALEY,
FEBRUARY 10, 1993

REFERRED TO COMMITTEE ON EDUCATION, FEBRUARY 10, 1993

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," further providing for transferred
6 programs and classes.

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

9 Section 1. Section 1113 of the act of March 10, 1949
10 (P.L.30, No.14), known as the Public School Code of 1949,
11 amended August 5, 1991 (P.L.219, No.25), is amended to read:

12 Section 1113. Transferred Programs and Classes.--(a) When a
13 program or class is transferred as a unit from one or more
14 school entities to another school entity or entities,
15 professional employees who [were assigned to the class or program
16 immediately prior to the transfer and are classified as teachers
17 as defined in section 1141(1) and are suspended as a result of
18 the transfer and who are properly certificated shall be offered
19 employment in the program or class by the receiving entity or

1 entities when services of a professional employe are needed to
2 sustain the program or class transferred, as long as there is no
3 suspended professional employe in the receiving entity who is
4 properly certificated to fill the position in the transferred
5 class or program.] are classified as teachers as defined in
6 section 1141(1) and who are properly certified and
7 paraprofessional employes who were assigned to the class or
8 program immediately prior to the transfer and who are suspended
9 as a result of the transfer shall be offered employment in the
10 program or class by the receiving entity or entities when
11 services of professional or a paraprofessional employe are
12 needed to sustain the program or class transferred as long as
13 there is no suspended professional employe or paraprofessional
14 in the receiving entity who is properly certificated or
15 qualified to fill the position in the transferred class or
16 program.

17 (a.1) Transfers under the provisions of this act shall only
18 occur once a year at the beginning of each school year and shall
19 be included in the district's special education plan if the
20 receiving entity is a school district. Special education program
21 transfers may not be implemented unless the transfers are
22 approved by the Department of Education on or before March 31 of
23 the year preceding the proposed transfer.

24 (b) Transferred professional and paraprofessional employes
25 shall be credited by the receiving entity only for their sick
26 leave accumulated in the sending entity and also for their years
27 of service in the sending entity, the latter for purposes of
28 sabbatical leave eligibility and placement in the salary
29 schedule: [Provided, however, That such]

30 (1) Provided, That these employes shall not utilize the

1 sabbatical leave until they have taught in the receiving entity
2 for a period of three (3) years. [Such]

3 (2) Provided, That these employees shall transfer their
4 accrued seniority in the area of certification required for the
5 transferred program or class only[.] or, in the case of
6 paraprofessionals, seniority in the intermediate unit.

7 (3) Provided, That these employees shall not be paid less
8 than what their salary was in the sending entity. In the event
9 that, in order to satisfy this provision the receiving entity
10 must place the transferred employee on a higher step on its
11 salary schedule than the employee would otherwise have been
12 entitled, such placement may be maintained by the receiving
13 entity until the employee's years of service in the receiving
14 entity are sufficient to place the employee at the salary step at
15 which the employee was placed at the time of transfer.

16 (b.1) Professional employees who are classified as teachers
17 and paraprofessional employees who are not transferred with the
18 classes to which they are assigned or who have received a formal
19 notice of suspension shall form a pool of employees within the
20 school entity. No new professional employee who is classified as
21 a teacher or paraprofessional employee shall be employed by a
22 school entity assuming program responsibility for transferred
23 students while there is:

24 (1) a properly certificated professional employee who is
25 classified as a teacher or paraprofessional employee suspended in
26 the receiving entity; or

27 (2) if no person is qualified under clause (1), a properly
28 certificated member of the school entity pool who is willing to
29 accept employment with the school entity assuming program
30 responsibility for transferred students. Members of the pool

1 shall have the right to refuse employment offers from such
2 school entity and remain in the pool. Refusal to accept work
3 under this subsection shall not be grounds for denial of
4 unemployment compensation under sections 401 and 402 of the act
5 of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known
6 as the "Unemployment Compensation Law."

7 (c) Nothing contained in this section shall be construed to
8 supersede or preempt any provision of a collective bargaining
9 agreement in effect on February 4, 1982, and negotiated by a
10 school entity and an exclusive representative of the employees in
11 accordance with the act of July 23, 1970 (P.L.563, No.195),
12 known as the "Public Employe Relations Act."

13 (c.1) If a receiving entity returns a unit to the sending
14 entity within two academic years of the first transfer,
15 professional and paraprofessional employes assigned to the unit
16 shall be given the opportunity to return with the unit.

17 (d) (1) As used in this section, the term "school entity"
18 or "school entities" shall mean an intermediate unit and its
19 participating school districts or an area vocational-technical
20 school and its sending school districts.

21 (2) As used in this section, the term "unit" shall mean a
22 program or class whose membership falls within the minimum and
23 maximum class size as defined in Department of Education
24 standards and where the program or class can be identified as
25 being substantially intact in accordance with standards of the
26 department.

27 (3) As used in this section, the term "paraprofessional
28 employe" shall mean an instructional aide, classroom aide,
29 special education aide, teaching assistant or associate teacher
30 who is not defined as a professional employe.

1 Section 2. This act shall take effect in 60 days.