

AMENDMENTS TO HOUSE BILL NO. 805

Sponsor: REPRESENTATIVE O'NEILL

Printer's No. 1424

1 Amend Bill, page 1, lines 6 and 7, by striking out "for
2 temporary professional employees, for contracts, execution and
3 form,"

4 Amend Bill, page 1, lines 8 through 10, by striking out "and
5 to receive tenure, for" in line 8, all of line 9 and
6 "suspension" in line 10

7 Amend Bill, page 1, lines 13 through 19; pages 2 through 10,
8 lines 1 through 30; page 11, lines 1 through 6; by striking out
9 all of said lines on said pages and inserting

10 Section 1. Section 1124 of the act of March 10, 1949
11 (P.L.30, No.14), known as the Public School Code of 1949,
12 amended June 30, 2012 (P.L.684, No.82), is amended to read:

13 Section 1124. Causes for Suspension.--(a) Any board of
14 school directors may suspend the necessary number of
15 professional employees, for any of the causes hereinafter
16 enumerated:

17 (1) substantial decrease in pupil enrollment in the school
18 district;

19 (2) curtailment or alteration of the educational program on
20 recommendation of the superintendent and on concurrence by the
21 board of school directors, as a result of substantial decline in
22 class or course enrollments or to conform with standards of
23 organization or educational activities required by law or
24 recommended by the Department of [Public Instruction] Education;

25 (3) consolidation of schools, whether within a single
26 district, through a merger of districts, or as a result of joint
27 board agreements, when such consolidation makes it unnecessary
28 to retain the full staff of professional employees; [or]

29 (4) when new school districts are established as the result
30 of reorganization of school districts pursuant to Article II.,
31 subdivision (i) of this act, and when such reorganization makes
32 it unnecessary to retain the full staff of professional

1 employes[.]; or

2 (5) economic reasons, as part of a plan to reduce or control
3 school district costs. A school district may not use costs as
4 the sole factor in determining which professional employes to
5 suspend.

6 (b) Notwithstanding an existing or future provision in a
7 collective bargaining agreement or other similar employment
8 contract to the contrary, suspension of a professional employe
9 due to the curtailment or alteration of the educational program
10 as set forth in subsection (a)(2) may be effectuated without the
11 approval of the curtailment or alteration of the educational
12 program by the Department of Education, provided that, where an
13 educational program is altered or curtailed as set forth in
14 subsection (a)(2), the school district shall notify the
15 Department of Education of the actions taken pursuant to
16 subsection (a)(2). The Department of Education shall post all
17 notifications received from a school district pursuant to this
18 subsection on the Department of Education's publicly accessible
19 Internet website.

20 (c) In the case of a suspension under subsection (a)(5), the
21 following shall apply to any suspension of a professional
22 employe assigned to provide instruction directly to students:

23 (1) A board of school directors may suspend the necessary
24 number of professional employes assigned to provide instruction
25 directly to students only if the board of school directors also
26 suspends at least an equal percentage proportion of
27 administrative staff.

28 (2) The Secretary of Education may grant a board of school
29 directors a waiver of paragraph (1) if the following apply:

30 (i) the Secretary of Education determines that compliance
31 with paragraph (1) is likely to cause significant harm to the
32 operations of the school district;

33 (ii) the Secretary of Education submits the determination to
34 the State Board of Education; and

35 (iii) the State Board of Education approves the
36 determination by a majority of its members.

37 (3) Any three administrative staff positions selected by the
38 board of school directors shall be exempt from the requirements
39 of paragraphs (1) and (2).

40 (d) A board of school directors may suspend professional
41 employes under subsection (a)(5) only if the board of school
42 directors adopts, at a public meeting at which an opportunity
43 for public comment regarding the proposed suspension has been
44 provided, a resolution setting forth all of the following:

45 (1) The reason the suspension is necessary.

46 (2) The number and percentage of employes to be suspended
47 who are assigned to provide instruction directly to students.

48 (3) The number and percentage of employes to be suspended
49 who are administrative staff.

50 (4) The number and percentage of positions eliminated and a
51 description of each position eliminated.

1 (5) The academic subjects, courses or electives and
2 nonacademic activities that will be affected by the suspension.

3 (6) A description of other cost-saving actions undertaken by
4 the school district.

5 (7) The measures the school district will undertake to
6 minimize the impact on student achievement, if any, caused by a
7 suspension of professional employees assigned to provide
8 instruction directly to students.

9 (e) For purposes of subsections (c) and (d), "administrative
10 staff" shall include, but not be limited to, superintendents,
11 assistant superintendents, deputy superintendents, principals,
12 assistant principals, supervisors, managers, directors and
13 coordinators.

14 (f) Nothing in this section shall be construed to limit the
15 causes for which a temporary professional employee may be
16 suspended.

17 (g) Following the 2019-2020 school year, the Department of
18 Education shall conduct a study of the effectiveness of the
19 provisions of subsections (a) (5), (c), (d) and (e) and section
20 1125.1 and shall deliver a written report of its findings,
21 including any recommendations for changes to subsections (a) (5),
22 (c), (d) and (e) and section 1125.1, to the Governor, the
23 chairman and minority chairman of the Education Committee of the
24 Senate and the chairman and minority chairman of the Education
25 Committee of the House of Representatives by December 31, 2020.

26 Section 2. Section 1125.1 of the act, amended or added
27 November 20, 1979 (P.L.465, No.97) and July 10, 1986 (P.L.1270,
28 No.117), is amended to read:

29 Section 1125.1. Persons to be Suspended.--(a) Professional
30 employees shall be suspended under section 1124 (relating to
31 causes for suspension) in inverse order of seniority within the
32 school entity of current employment, except as provided under
33 subsection (a.1). Approved leaves of absence shall not
34 constitute a break in service for purposes of computing
35 seniority for suspension purposes. Seniority shall continue to
36 accrue during suspension and all approved leaves of absence.

37 (a.1) For professional employees suspended under section
38 1124(a) (5), a board of school directors may suspend without
39 regard to seniority a professional employee whose two most recent
40 consecutive performance ratings issued under section 1123 were
41 unsatisfactory if the professional employee had an opportunity to
42 complete a performance improvement plan prior to the most recent
43 unsatisfactory rating.

44 (b) Where there is or has been a consolidation of schools,
45 departments or programs, all professional employees shall retain
46 the seniority rights they had prior to the reorganization or
47 consolidation.

48 (c) [A] Except as otherwise provided under subsection (a.1),
49 a school entity shall realign its professional staff so as to
50 insure that more senior employees are provided with the
51 opportunity to fill positions for which they are certificated

1 and which are being filled by less senior employees.

2 (d) (1) No suspended employee shall be prevented from
3 engaging in another occupation during the period of suspension.

4 (2) Suspended professional employees or professional employees
5 demoted for the reasons set forth in section 1124(a)(1), (2),
6 (3) and (4) shall be reinstated on the basis of their seniority
7 within the school entity. No new appointment shall be made while
8 there is such a suspended or demoted professional employee
9 available who is properly certificated to fill such vacancy. For
10 the purpose of this subsection, positions from which
11 professional employees are on approved leaves of absence shall
12 also be considered temporary vacancies. Professional employees
13 suspended for the reasons set forth under section 1124(a)(5) may
14 be reinstated.

15 (3) To be considered available a suspended professional
16 employee must annually report to the governing board in writing
17 his current address and his intent to accept the same or similar
18 position when offered.

19 (4) A suspended employee enrolled in a college program during
20 a period of suspension and who is recalled shall be given the
21 option of delaying his return to service until the end of the
22 current semester.

23 (e) Nothing contained in section 1125.1(a) through [(d)] (g)
24 shall be construed to supersede or preempt any provisions of a
25 collective bargaining agreement negotiated by a school entity
26 and an exclusive representative of the employees in accordance
27 with the act of July 23, 1970 (P.L.563, No.195), known as the
28 "Public Employee Relations Act[";]," and in effect on the
29 effective date of subsection (g); however, no agreement shall
30 prohibit the right of a professional employee who is not a member
31 of a bargaining unit from retaining seniority rights under the
32 provisions of this act.

33 (f) A decision to suspend in accordance with this section
34 shall be considered an adjudication within the meaning of the
35 "Local Agency Law."

36 (g) If a professional employee is suspended under this
37 section, the professional employee's position shall remain vacant
38 for at least one year; provided, that the school entity may
39 reinstate at any time the professional employee who was
40 suspended.

41 Section 3. This act shall take effect immediately.