

AMENDMENTS TO HOUSE BILL NO. 805

Sponsor: REPRESENTATIVE SAYLOR

Printer's No. 1424

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

4 Section 1. Sections 1108 and 1121(b) of the act of March 10,
5 1949 (P.L.30, No.14), known as the Public School Code of 1949,
6 amended March 29, 1996 (P.L.47, No.16), are amended to read:

7 Section 1108. Temporary Professional Employes.--(a) It
8 shall be the duty of the district superintendent to notify each
9 temporary professional employe, at least twice each year during
10 the period of his or her employment, of the professional
11 quality, professional progress, and rating of his or her
12 services. No temporary professional employe shall be dismissed
13 unless rated unsatisfactory, and notification, in writing, of
14 such unsatisfactory rating shall have been furnished the employe
15 within ten (10) days following the date of such rating. The
16 rating of a temporary professional employe shall be done as
17 provided in section one thousand one hundred twenty-three of
18 this act.

19 (b) (1) A temporary professional employe initially employed
20 by a school district prior to June 30, 1996, whose work has been
21 certified by the district superintendent to the secretary of the
22 school district, during the last four (4) months of the second
23 year of such service, as being satisfactory shall thereafter be
24 a "professional employe" within the meaning of this article.

25 (2) A temporary professional employe initially employed by a
26 school district, on or after June 30, 1996, but prior to June
27 30, 2015, whose work has been certified by the district
28 superintendent to the secretary of the school district, during
29 the last four (4) months of the third year of such service, as
30 being satisfactory shall thereafter be a "professional employe"
31 within the meaning of this article.

32 (2.1) A temporary professional employe initially employed by
33 a school district, on or after June 30, 2015, whose work has
34 been certified by the district superintendent to the secretary
35 of the school district, during the last four (4) months of the
36 third year of such service, or, in the case of a temporary
37 professional employe whose temporary professional status was

1 extended for one additional year by the district superintendent
2 pursuant to paragraph (2.2), during the last four (4) months of
3 the fourth year of such service, as being satisfactory shall
4 thereafter be a "professional employe" within the meaning of
5 this article.

6 (2.2) The district superintendent may extend the temporary
7 professional status of an employe by one additional year when,
8 in the professional judgment of the district superintendent,
9 further evaluation of the temporary professional employe is
10 necessary prior to certifying the work of the temporary
11 professional employe as satisfactory. To extend the temporary
12 professional status of an employe under this paragraph, the
13 district superintendent must provide the temporary professional
14 employe, during the last four (4) months of the third year of
15 the temporary professional employe's service, with a written
16 statement, signed by the district superintendent, setting forth
17 the specific reason for the extension.

18 (3) The attainment of the status under paragraph (1) [or],
19 (2) or (2.1) shall be recorded in the records of the board and
20 written notification thereof shall be sent also to the employe.
21 The employe shall then be tendered forthwith a regular contract
22 of employment as provided for professional employes. No
23 professional employe who has attained tenure status in any
24 school district of this Commonwealth shall thereafter be
25 required to serve as a temporary professional employe before
26 being tendered such a contract when employed by any other part
27 of the public school system of the Commonwealth.

28 (c) (1) Any temporary professional employe employed by a
29 school district prior to June 30, 1996, who is not tendered a
30 regular contract of employment at the end of two years of
31 service, rendered as herein provided, shall be given a written
32 statement signed by the president and secretary of the board of
33 school directors and setting forth explicitly the reason for
34 such refusal.

35 (2) Any temporary professional employe employed by a school
36 district after June 30, 1996, but prior to June 30, 2015, who is
37 not tendered a regular contract of employment at the end of
38 three years of service, rendered as herein provided, shall be
39 given a written statement signed by the president and secretary
40 of the board of school directors and setting forth explicitly
41 the reason for such refusal.

42 (3) Any temporary professional employe employed by a school
43 district on or after June 30, 2015, who is not tendered a
44 regular contract of employment at the end of three (3) years of
45 service, or, in the case of a temporary professional employe
46 whose temporary professional status was extended for one
47 additional year by the district superintendent pursuant to
48 subsection (b)(2.2), at the end of four (4) years of service,
49 rendered as herein provided, shall be given a written statement
50 signed by the president and secretary of the board of school
51 directors and setting forth explicitly the reason for such

1 refusal.

2 (d) Temporary professional employes shall for all purposes,
3 except tenure status, be viewed in law as full-time employes,
4 and shall enjoy all the rights and privileges of regular full-
5 time employes.

6 Section 1121. Contracts; Execution; Form.--* * *

7 (b) (1) Each board of school directors in all school
8 districts shall hereafter enter into contracts, in writing, with
9 each professional employe initially employed by a school
10 district prior to June 30, 1996, who has satisfactorily
11 completed two (2) years of service in any school district of
12 this Commonwealth.

13 (2) Each board of school directors in all school districts
14 shall hereafter enter into contracts, in writing, with each
15 professional employe initially employed by a school district, on
16 or after June 30, 1996, but prior to June 30, 2015, who has
17 satisfactorily completed three (3) years of service in any
18 school district of this Commonwealth.

19 (3) Each board of school directors in all school districts
20 shall only hereafter enter into contracts, in writing, with each
21 professional employe initially employed by a school district, on
22 or after June 30, 2015, who has satisfactorily completed three
23 (3) years of service or, in the case of a temporary professional
24 employe whose temporary professional contract is extended by the
25 district superintendent for one additional year and who has
26 satisfactorily completed four (4) years of service, in any
27 school district of this Commonwealth and received overall
28 performance ratings of "distinguished" or "proficient" on both
29 of the professional employe's two (2) most recent end-of-year
30 performance evaluations pursuant to section 1123 at the school
31 district of current employment.

32 * * *

33 Section 2. Section 1124 of the act, amended June 30, 2012
34 (P.L.684, No.82), is amended to read:

35 Section 1124. Causes for Suspension.--(a) Any board of
36 school directors may suspend the necessary number of
37 professional employes, for any of the causes hereinafter
38 enumerated:

39 (1) substantial decrease in pupil enrollment in the school
40 district;

41 (2) curtailment or alteration of the educational program on
42 recommendation of the superintendent and on concurrence by the
43 board of school directors, as a result of substantial decline in
44 class or course enrollments or to conform with standards of
45 organization or educational activities required by law or
46 recommended by the Department of [Public Instruction] Education;

47 (3) consolidation of schools, whether within a single
48 district, through a merger of districts, or as a result of joint
49 board agreements, when such consolidation makes it unnecessary
50 to retain the full staff of professional employes; [or]

51 (4) when new school districts are established as the result

1 of reorganization of school districts pursuant to Article II.,
2 subdivision (i) of this act, and when such reorganization makes
3 it unnecessary to retain the full staff of professional
4 employes[.]; or

5 (5) economic reasons that require a reduction in
6 professional employes, provided that a professional employe who
7 received an overall performance rating of "distinguished" on at
8 least two (2) of the professional employe's most recent three
9 (3) end-of-year performance ratings may not be suspended for
10 economic reasons under this paragraph.

11 (a.1) A school district may not use an employe's
12 compensation in determining which professional employes to
13 suspend, but shall use the procedures in section 1125.1 to
14 determine the order in which professional employes are
15 suspended.

16 (b) Notwithstanding an existing or future provision in a
17 collective bargaining agreement or other similar employment
18 contract to the contrary, suspension of a professional employe
19 due to the curtailment or alteration of the educational program
20 as set forth in subsection (a)(2) may be effectuated without the
21 approval of the curtailment or alteration of the educational
22 program by the Department of Education, provided that, where an
23 educational program is altered or curtailed as set forth in
24 subsection (a)(2), the school district shall notify the
25 Department of Education of the actions taken pursuant to
26 subsection (a)(2). The Department of Education shall post all
27 notifications received from a school district pursuant to this
28 subsection on the Department of Education's publicly accessible
29 Internet website.

30 (c) The following shall apply in the case of a suspension
31 under subsection (a)(5) in which a board of school directors
32 suspends professional employes who are assigned to provide
33 instruction directly to students:

34 (1) A board of school directors may suspend the necessary
35 number of professional employes assigned to provide instruction
36 directly to students only if the board of school directors also
37 suspends at least an equal percentage proportion of
38 administrative staff.

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

41 (i) the Secretary of Education determines that the school
42 district's operations are already sufficiently streamlined;

43 (ii) the Secretary of Education submits the determination to
44 the State Board of Education; and

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

47 (3) Any five administrative staff positions selected by the
48 board of school directors shall be exempt from the requirements
49 of paragraphs (1) and (2).

50 (d) In the case of a suspension under subsection (a)(5), a
51 board of school directors may suspend the necessary number of

1 professional employees only by a majority vote at a public
2 meeting of the board of school directors.

3 (e) Following the 2019-2020 school year, the Legislative
4 Budget and Finance Committee shall conduct a study of the
5 effectiveness of the provisions of sections 1124(a)(5), (c) and
6 (d) and 1125.1 and shall deliver a written report of its
7 findings, including whether these provisions of law are being
8 used effectively by school districts to improve school district
9 efficiency, to the Governor, the chairman and minority chairman
10 of the Education Committee of the Senate and the chairman and
11 minority chairman of the Education Committee of the House of
12 Representatives by December 31, 2020.

13 (f) (1) A collective bargaining agreement negotiated by a
14 school district and an exclusive representative of professional
15 employees in accordance with the act of July 23, 1970 (P.L.563,
16 No.195), known as the "Public Employe Relations Act," after the
17 effective date of this subsection may not prohibit the
18 suspension of professional employes for economic reasons other
19 than as provided for in this section.

20 (2) A provision in any agreement or contract in effect on
21 the effective date of this subsection that prohibits the
22 suspension of professional employes for economic reasons in
23 conflict with this section shall be discontinued in any new or
24 renewed agreement or contract or during the period of status quo
25 following an expired contract.

26 Section 3. 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 employes 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. Approved leaves of absence
33 shall not constitute a break in service for purposes of
34 computing seniority for suspension purposes.] as follows, within
35 the area of certification required by law for the professional
36 employe's current position:

37 (1) (i) Each professional employe who received an overall
38 performance rating of "failing" on the professional employe's
39 most recent end-of-year performance rating shall be suspended
40 first.

41 (ii) After suspending professional employes under subclause
42 (i), each professional employe who received an overall
43 performance rating of "needs improvement" on the professional
44 employe's most recent end-of-year performance rating shall be
45 suspended second.

46 (iii) When more professional employes receive the same
47 overall performance rating than there are suspensions, seniority
48 within the school entity shall be used to determine suspensions
49 among professional employes with the same overall performance
50 rating on the employe's most recent performance evaluation
51 pursuant to section 1123, provided that approved leaves of

1 absence shall not constitute a break in service for purposes of
2 computing seniority for suspension purposes.

3 (2) After suspending professional employes under clause (1),
4 each professional employe who received an overall performance
5 rating of "proficient" or "distinguished" on the professional
6 employe's most recent end-of-year performance rating shall be
7 suspended in inverse order of seniority within the school entity
8 of current employment, provided that approved leaves of absence
9 shall not constitute a break in service for purposes of
10 computing seniority for suspension purposes.

11 (a.1) Seniority shall continue to accrue during suspension
12 and all approved leaves of absence.

13 (b) Where there is or has been a consolidation of schools,
14 departments or programs, all professional employes shall retain
15 the seniority rights they had prior to the reorganization or
16 consolidation.

17 [(c) A school entity shall realign its professional staff so
18 as to insure that more senior employes are provided with the
19 opportunity to fill positions for which they are certificated
20 and which are being filled by less senior employes.]

21 (d) (1) No suspended employe shall be prevented from
22 engaging in another occupation during the period of suspension.

23 (2) Suspended professional employes or professional employes
24 demoted for the reasons set forth in section 1124 shall be
25 reinstated [on the basis of their seniority within the school
26 entity.] as follows:

27 (i) Professional employes who received an overall
28 performance rating of "proficient" or "distinguished" on their
29 most recent end-of-year performance evaluations shall be
30 reinstated first in order of seniority within the area of
31 certification required for the vacancy being filled and within
32 the school entity.

33 (ii) After reinstating professional employes under subclause
34 (i), professional employes who received an overall performance
35 rating of "needs improvement" on their most recent end-of-year
36 performance evaluations shall be reinstated second in order of
37 seniority within the area of certification required for the
38 vacancy being filled and within the school entity.

39 (iii) After reinstating professional employes under
40 subclause (ii), professional employes who received an overall
41 performance rating of "failing" on their most recent end-of-year
42 performance evaluations shall be reinstated last in order of
43 seniority within the area of certification required for the
44 vacancy being filled and within the school entity.

45 No new appointment shall be made while there is such a suspended
46 or demoted professional employe available who is properly
47 certificated to fill such vacancy. For the purpose of this
48 subsection, positions from which professional employes are on
49 approved leaves of absence shall also be considered temporary
50 vacancies.

51 (3) To be considered available a suspended professional

1 employe must annually report to the governing board in writing
2 his current address and his intent to accept the same or similar
3 position when offered.

4 (4) A suspended employe enrolled in a college program during
5 a period of suspension and who is recalled shall be given the
6 option of delaying his return to service until the end of the
7 current semester.

8 (e) Nothing contained in [section 1125.1(a) through (d)]
9 this section shall be construed to:

10 (1) limit the cause for which a temporary professional
11 employe may be suspended; or

12 (2) supersede or preempt any provisions of a collective
13 bargaining agreement negotiated by a school entity and an
14 exclusive representative of the employes in accordance with the
15 act of July 23, 1970 (P.L.563, No.195), known as the "Public
16 Employe Relations Act"; however, no agreement shall prohibit the
17 right of a professional employe who is not a member of a
18 bargaining unit from retaining seniority rights under the
19 provisions of this act.

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

23 (g) (1) No collective bargaining agreement negotiated by a
24 school district and an exclusive representative of the employes
25 in accordance with the "Public Employe Relations Act" after the
26 effective date of this subsection shall provide for suspending,
27 reinstating or realigning professional employes based on
28 seniority other than as provided for in this section.

29 (2) Upon the expiration, amendment or adoption of any
30 agreement or contract, a provision that provides for suspending,
31 reinstating or realigning professional employes based on
32 seniority in conflict with this section shall be discontinued in
33 any new or renewed agreement or contract or during the period of
34 status quo following an expired contract.

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

40 Section 4. Section 1131 of the act is amended to read:

41 Section 1131. Appeals to [Superintendent of Public
42 Instruction] Secretary of Education.--In case the professional
43 employe concerned considers himself or herself aggrieved by the
44 action of the board of school directors, an appeal by petition,
45 setting forth the grounds for such appeal, may be taken to the
46 [Superintendent of Public Instruction] Secretary of Education at
47 Harrisburg. Such appeal shall be filed within [thirty (30)]
48 fifteen (15) days after receipt by registered mail of the
49 written notice of the decision of the board. A copy of such
50 appeal shall be served by registered mail on the secretary of
51 the school board.

1 The [Superintendent of Public Instruction] Secretary of
2 Education shall fix a day and time for hearing, which shall be
3 not sooner than ten (10) days nor more than thirty (30) days
4 after presentation of such petition, and shall give written
5 notice to all parties interested.

6 The [Superintendent of Public Instruction] Secretary of
7 Education shall review the official transcript of the record of
8 the hearing before the board, and may hear and consider such
9 additional testimony as he may deem advisable to enable him to
10 make a proper order. At said hearing the litigants shall have
11 the right to be heard in person or by counsel or both.

12 After hearing and argument and reviewing all the testimony
13 filed or taken before him, the [Superintendent of Public
14 Instruction] Secretary of Education shall enter such order,
15 either affirming or reversing the action of the board of school
16 directors, as to him appears just and proper.

17 Section 5. This act shall take effect as follows:

18 (1) The amendment or addition of sections 1124(f) and
19 1125.1(g) of the act shall take effect immediately.

20 (2) The amendment of sections 1108 and 1121 shall take
21 effect June 30, 2015.

22 (3) This section shall take effect immediately.

23 (4) The remainder of this act shall take effect June 30,
24 2016.