

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 861 Session of
1999

INTRODUCED BY TANGRETTI, MARKOSEK, READSHAW, BELFANTI, GEIST,
HERMAN, WOJNAROSKI, HALUSKA, PISTELLA, LAUGHLIN, SHANER,
WALKO, FARGO, PESCI, TRELLO, STABACK, MICOZZIE, CASORIO,
VAN HORNE, TIGUE, GIGLIOTTI, SANTONI, MELIO, RAMOS, McCALL,
MUNDY, SOLOBAY, M. COHEN, JAMES, YOUNGBLOOD AND STEELMAN,
MARCH 10, 1999

REFERRED TO COMMITTEE ON EDUCATION, MARCH 10, 1999

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 (1) professional employees who were assigned to the class or
16 program immediately prior to the transfer and are classified as
17 teachers as defined in section 1141(1) and are suspended as a
18 result of the transfer and who are properly certificated shall

1 be offered employment in the program or class by the receiving
2 entity or entities when services of a professional employe are
3 needed to sustain the program or class transferred, as long as
4 there is no suspended professional employe in the receiving
5 entity who is properly certificated to fill the position in the
6 transferred class or program[.]; and

7 (2) paraprofessional employes who were assigned to the class
8 or program immediately prior to the transfer and who are
9 suspended as a result of the transfer shall be offered
10 employment in the program or class by the receiving entity or
11 entities when services of professional or a paraprofessional
12 employe are needed to sustain the program or class transferred
13 as long as there is no suspended professional employe or
14 furloughed paraprofessional in the receiving entity who is
15 properly certificated, in the case of a professional employe, or
16 experienced, in the case of a paraprofessional, to fill the
17 position in the transferred class or program. The receiving
18 entity, however, shall not be required to hire a professional or
19 paraprofessional employe pursuant to this subsection whose
20 personnel file, including sealed portions thereof, is not made
21 available to the receiving entity for inspection as a condition
22 of hiring. Receiving entities may refuse to employ an individual
23 who received at least two unsatisfactory ratings during the
24 thirty-six (36) months prior to the date of transfer.

25 (a.1) Transfers under the provisions of this act shall only
26 occur once a year at the beginning of each school year and shall
27 be included in the district's special education plan if the
28 receiving entity is a school district. Special education program
29 transfers may not be implemented unless the transfers are
30 approved by the Department of Education on or before March 31 of

1 the year preceding the proposed transfer.

2 (b) Transferred professional employees shall be credited by
3 the receiving entity [only] for their sick leave accumulated in
4 the sending entity and [also] for their years of service in the
5 sending entity, the latter for purposes of sabbatical leave
6 eligibility and of placement in the salary schedule[: Provided,
7 however, That such]. Transferred paraprofessional employees shall
8 be credited by the receiving entity for their sick leave
9 accumulated in the sending entity and for their years of service
10 in the sending entity, the latter for the purposes of other
11 benefits and of placement in the salary schedule. The following
12 shall apply:

13 (1) Professional employees shall not utilize the sabbatical
14 leave until they have taught in the receiving entity for a
15 period of three (3) years. [Such]

16 (2) Transferred employees shall transfer their accrued
17 seniority in the area of certification required for the
18 transferred program or class only[.] or, in the case of
19 paraprofessionals, seniority in the intermediate unit.

20 (3) Paraprofessional employees shall not be paid less than
21 what their salary was in the sending entity. In the event that,
22 in order to satisfy this clause, the receiving entity must place
23 the transferred employee on a higher step on its salary schedule
24 than the employee would otherwise have been entitled, such
25 placement may be maintained by the receiving entity until the
26 employee's years of service in the receiving entity are
27 sufficient to place the employee at the salary step at which the
28 employee was placed at the time of transfer.

29 (b.1) Professional employees who are classified as teachers
30 and paraprofessional employees who are not transferred with the

1 classes to which they are assigned or who have received a formal
2 notice of suspension shall form a pool of employees within the
3 school entity. No school entity shall be obligated to hire from
4 the pool once the pool which is in effect at the time of the
5 transfer has been exhausted. No new [professional] employee who
6 is classified as a teacher or paraprofessional employee shall be
7 employed by a school entity assuming program responsibility for
8 transferred students while there is:

9 (1) a properly certificated professional employee who is
10 classified as a teacher or paraprofessional employee suspended in
11 the receiving entity; or

12 (2) if no person is qualified under clause (1), a properly
13 certificated member of the school entity pool who is willing to
14 accept employment with the school entity assuming program
15 responsibility for transferred students. Members of the pool
16 shall have the right to refuse employment offers from such
17 school entity and remain in the pool[.]; Provided, however, That
18 the pool member shall not remain in the pool after three
19 refusals of offers of full-time employment and Provided further,
20 That any pool member who changes residency from this
21 Commonwealth to another residency shall be removed from the

22 pool. Refusal to accept work under this subsection shall not be
23 grounds for denial of unemployment compensation under sections
24 401 and 402 of the act of December 5, 1936 (2nd Sp.Sess., 1937
25 P.L.2897, No.1), known as the "Unemployment Compensation Law."

26 (c) Nothing contained in this section shall be construed to
27 supersede or preempt any provision of a collective bargaining
28 agreement in effect on February 4, 1982, and negotiated by a
29 school entity and an exclusive representative of the employees in
30 accordance with the act of July 23, 1970 (P.L.563, No.195),

1 known as the "Public Employee Relations Act."

2 (c.1) If a receiving entity returns a unit to the sending
3 entity within two (2) academic years of the first transfer,
4 professional and paraprofessional employees assigned to the unit
5 shall be given the opportunity to return with the unit.

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

10 (2) As used in this section, the term "unit" shall mean a
11 program or class whose membership falls within the minimum and
12 maximum class size as defined in Department of Education
13 standards[.] and where the program or class can be identified as
14 being substantially intact in accordance with standards of the
15 department.

16 (3) As used in this section, the term "paraprofessional
17 employee" shall mean an instructional aide, classroom aide,
18 special education aide, teaching assistant or associate teacher
19 who is not defined as a "professional employee."

20 Section 2. This act shall take effect immediately.