THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 971   Session of 2013

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," in school finances, further providing
6   for limitations on certain unreserved fund balances; and, in
7   charter schools, further providing for funding for charter
8   schools.

9   The General Assembly of the Commonwealth of Pennsylvania

10 hereby enacts as follows:

11   Section 1. Section 688(a) of the act of March 10, 1949

12 (P.L.30, No.14), known as the Public School Code of 1949, added

13 December 23, 2003 (P.L.304, No.48), is amended to read:

14   Section 688. Limitations on Certain Unreserved Fund

15 Balances.--(a) For the [2005-2006] 2013-2014 school year and

16 each school year thereafter, no school district shall approve an

17 increase in real property taxes [unless] and no charter school

18 shall be entitled to a payment from a resident school district

19 or the Commonwealth until it has adopted a budget that includes

20 an estimated ending unreserved, undesignated fund balance less

21 than the percentages set forth as follows:

School District Total Budgeted Expenditures	Estimated Ending Unreserved, Undesignated Fund Balance as Percentage of Total Budgeted Expenditures
Less Than or Equal to $11,999,999	12%
Between $12,000,000 and $12,999,999	11.5%
Between $13,000,000 and $13,999,999	11%
Between $14,000,000 and $14,999,999	10.5%
Between $15,000,000 and $15,999,999	10%
Between $16,000,000 and $16,999,999	9.5%
Between $17,000,000 and $17,999,999	9%
Between $18,000,000 and $18,999,999	8.5%
Greater Than or Equal to $19,000,000	8%

* * *

Section 2. Section 1725-A(a) of the act, amended June 29, 2002 (P.L.524, No.88), is amended to read:

Section 1725-A. Funding for Charter Schools.--(a) Funding for a charter school shall be provided in the following manner:

(1) There shall be no tuition charge for a resident or nonresident student attending a charter school.

(2) (i) For non-special education students, the charter school shall receive for each student enrolled no less than the budgeted total expenditure per average daily membership of the prior school year, as defined in section 2501(20), minus the budgeted expenditures of the district of residence for nonpublic school programs; adult education programs; community/junior college programs; student transportation services; for special education programs; facilities acquisition, construction and improvement services; and other financing uses, including debt service and fund transfers as provided in the Manual of Accounting and Related Financial Procedures for Pennsylvania

1 School Systems established by the department. This amount shall

2 be paid by the [district of residence of each student]

3 secretary.

4   (ii) The amount under subclause (i) shall be paid by the

5 secretary by deduction and transfer from all State payments to

6 the district of residence of each student as provided under

7 clause (5).

8   (iii) If a charter or cyber charter school disputes the

9 accuracy of a district's calculation under this clause, the

10 charter school or cyber charter school shall file a notice of

11 the dispute with the secretary who shall hold a hearing within

12 thirty (30) days of the notice to determine the accuracy of the

13 district's calculation. The secretary shall make the

14 determination within thirty (30) days of the hearing. The

15 district shall bear the burden of production and proof with

16 respect to its calculation under this clause.

17   (iv) The district shall be liable for the reasonable legal

18 fees incurred by a charter school or cyber charter school if the

19 charter school or cyber charter school is the substantially

20 prevailing party after a hearing under this clause. The charter

21 school or cyber charter school shall be liable for the

22 reasonable legal fees incurred by the district if the district

23 is the substantially prevailing party after a hearing under this

24 clause.

25   (v) All decisions of the secretary under this clause shall

26 be subject to appellate review by the Commonwealth Court.

27   (3) (i) For special education students, the charter school

28 shall receive for each student enrolled the same funding as for

29 each non-special education student as provided in clause (2),

30 plus an additional amount determined by dividing the district of

1 residence's total special education expenditure by the product

2 of multiplying the combined percentage of section 2509.5(k)

3 times the district of residence's total average daily membership

4 for the prior school year. This amount shall be paid by the

5 [district of residence of each student] secretary.

6 (ii) If a charter school, regional charter school or cyber

7 charter school disputes the accuracy of a district's calculation

8 under this clause, the charter school, regional charter school

9 or cyber charter school shall file a notice of the dispute with

10 the secretary who shall hold a hearing within thirty (30) days

11 of the notice to determine the accuracy of the district's

12 calculation. The secretary shall make the determination within

13 thirty (30) days of the hearing. The district shall bear the

14 burden of production and proof with respect to its calculation

15 under this clause.

16 (iii) The district shall be liable for the reasonable legal

17 fees incurred by a charter school, regional charter school or

18 cyber charter school if the charter school, regional charter

19 school or cyber charter school is the substantially prevailing

20 party after a hearing under this clause. The charter school,

21 regional charter school or cyber charter school shall be liable

22 for the reasonable legal fees incurred by the school district if

23 the district is the substantially prevailing party after a

24 hearing under this clause.

25 (iv) All decisions of the secretary under this clause shall

26 be subject to appellate review by the Commonwealth Court.

27 (4) A charter school may request the intermediate unit in

28 which the charter school is located to provide services to

29 assist the charter school to address the specific needs of

30 exceptional students. The intermediate unit shall assist the

1 charter school and bill the charter school for the services. The

2 intermediate unit may not charge the charter school more for any

3 service than it charges the constituent districts of the

4 intermediate unit.

5   (5) (i) Payments shall be made to the charter school in

6 twelve (12) equal monthly payments, by the fifth day of each

7 month, within the operating school year[. A student enrolled in

8 a charter school shall be included in the average daily

9 membership of the student's district of residence for the

10 purpose of providing basic education funding payments and

11 special education funding pursuant to Article XXV. If a school

12 district fails to make a payment to a charter school as

13 prescribed in this clause, the secretary shall deduct the

14 estimated amount, as documented by the charter school, from any

15 and all State payments made to the district after receipt of

16 documentation from the charter school.] and shall be made by the

17 secretary by deducting and paying to the charter school or cyber

18 charter school the estimated amount, as documented by the

19 charter or cyber charter school, from all State payments made to

20 the district or, if no payments have been made to the district,

21 from all State payments reasonably expected to be made, after

22 receipt of documentation from the school as to its enrollment.

23   (ii) If there are insufficient State payments being made to

24 a district to cover all charter and cyber charter school

25 deductions and transfers, the district shall pay the unpaid

26 balance directly to the charter or cyber charter school by the

27 15th day of each month.

28   (iii) A student enrolled in a charter or cyber charter

29 school shall be included in the average daily membership of the

30 student's district of residence for the purpose of providing

1 basic education funding payments and special education funding

2 under Article XXV.

3   (6) (i) Within thirty (30) days after the secretary [makes

4 the deduction} transfers the funds described in clause (5), a

5 school district may notify the secretary that the deduction made

6 from State payments to the district under this subsection is

7 inaccurate. The secretary shall provide the school district with

8 an opportunity to be heard concerning whether the charter school

9 documented that its students were enrolled in the charter

10 school, the period of time during which each student was

11 enrolled, the school district of residence of each student and

12 whether the amounts deducted from the school district were

13 accurate.

14   (ii) The burden of proof and production at the hearing shall

15 be on the school district. A hearing shall not be held before

16 the secretary deducts from State payments to the district and

17 transfers to the charter or cyber charter school the amount

18 estimated by the charter or cyber charter school.

19   (iii) The district shall be liable for the reasonable legal

20 fees incurred by a charter or cyber charter school if the

21 charter or cyber charter school is the substantially prevailing

22 party after a hearing under this clause. The charter or cyber

23 charter school shall be liable for the reasonable legal fees

24 incurred by the district if the district is the substantially

25 prevailing party after a hearing under this clause.

26   (iv) All decisions of the secretary under this clause shall

27 be subject to appellate review by the Commonwealth Court.

28 Supersedeas shall not be granted to the secretary or any party

29 to the proceeding on an appeal from the decision of the

30 secretary under this clause.

1   (v) Absent a court order, the secretary shall not hold any

2 payments in escrow under this clause.

3   (7) The secretary shall make no advance payments to a

4 district which may limit the ability of the secretary to make

5 scheduled payments to charter schools.

6   (8) The board of trustees of a charter school entity may

7 elect on an annual basis to be paid directly from the school

8 district of residence. Any board of trustees of a charter school

9 entity that makes such election shall notify the department in

10 accordance with the timelines established in the department

11 guidelines. The school district of residence shall provide for

12 payment to the charter school entity that makes such election as

13 follows:

14   (i) Payments shall be made to the charter school entity in

15 twelve (12) equal monthly payments, according to the established

16 monthly unipay schedule, within the operating school year.

17   (ii) Payments shall be made directly by the school district

18 of residence paying to the charter school entity the estimated

19 amount, as documented by the charter school entity, after

20 receipt of documentation from the charter school entity.

21   (iii) If a school district of residence fails to make a

22 payment to a charter school entity as prescribed in this clause,

23 the secretary shall deduct the estimated amount, as documented

24 by the charter school entity, from any and all State payments

25 made to the school district of residence for the operating

26 school year or any subsequent school year after receipt of

27 documentation from the charter school entity.

28   * * *

29 Section 3. The Secretary of Education's duty to make

30 payments under this act includes all amounts accrued, but not

1 paid, as of the effective date of this section.

2   Section 4. This act shall take effect July 1, 2013, or

3 immediately, whichever is later.