

LEGISLATIVE REFERENCE BUREAU

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No. _____

LEGISLATIVE REFERENCE BUREAU

AN ACT

Providing for the suspension of mandates by school entities; requiring the Department of Education to maintain a list of suspended mandates on its Internet website and to report annually to the General Assembly the mandates suspended by the school entities.

INTRODUCED _____ 20 _____

By _____ District NO. _____

By _____ District NO. _____

By _____ District NO. _____

By _____ District NO. _____

See next page for additional co-sponsors.

Referred to Committee on

Date _____ 20 _____

Reported _____ 20 _____

As Committed-Amended

Recommendation

By Hon. _____

AN ACT

1 Providing for the suspension of mandates by school entities;
2 requiring the Department of Education to maintain a list of
3 suspended mandates on its Internet website and to report
4 annually to the General Assembly the mandates suspended by
5 the school entities.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Mandate
10 Suspension Act of 2013.

11 Section 2. Definitions.

12 The following words and phrases when used in this act shall
13 have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "Board." The board of school directors or other governing
16 board of a school entity.

17 "Commonwealth agency." An executive agency or independent
18 agency of the Commonwealth.

19 "Department." The Department of Education of the

1 Commonwealth.

2 "Executive agency." The Governor and any department, board,
3 commission, authority, officer or agency of the Commonwealth
4 government. The term does not include a court or other officer
5 or agency of the unified judicial system, the General Assembly
6 and any of its officers and agencies or any independent agency.

7 "Independent agency." A board, commission, authority and any
8 other agency and officer of the Commonwealth government which is
9 not subject to the policy supervision and control of the
10 Governor. The term does not include any court or other officer
11 or agency of the unified judicial system or the General Assembly
12 and any of its officers and agencies.

13 "Mandate." A duty, standard or procedure imposed by a law or
14 regulation enacted by the General Assembly or promulgated by a
15 Commonwealth agency the effect of which requires a school entity
16 to conduct or fulfill its authorized activities,
17 responsibilities, purposes or functions in a manner that
18 increases the entity's cost of doing so or prevents the entity
19 from doing so in a more cost-effective or educationally
20 effective manner. The term does not include any limit on a rate
21 of taxation or the manner of adopting or levying a tax or rate
22 of taxation.

23 "Oversight agency." A Commonwealth agency which does any of
24 the following:

25 (1) Administers or has jurisdiction over the law or
26 regulation pursuant to which a school entity is to implement
27 a mandate.

28 (2) Has the duty to make reimbursement payments to a
29 school entity pursuant to a regularly scheduled reimbursement
30 regimen.

1 (3) Has a duty to monitor a school entity's compliance
2 with implementation of a mandate.

3 "Public officer." An elected or appointed school board
4 member as provided by State law.

5 "Regulation." A regulation, rule, standard, policy,
6 guideline, schedule, manual or similar document promulgated or
7 issued by a Commonwealth agency.

8 "School entity." A school district, joint school district,
9 career and technical school or intermediate unit.

10 "Secretary." The Secretary of Education of the Commonwealth.
11 Section 3. Mandate suspension resolution.

12 (a) Motion.--Except as otherwise provided in this section,
13 the board of a school entity may adopt at a public meeting a
14 resolution to suspend any mandate or combination of related
15 mandates if doing so will enable the school entity to improve
16 its instructional program or operate in a more effective,
17 efficient or economical manner.

18 (b) Memorandum.--The resolution suspending the mandate or
19 combination of related mandates shall incorporate by reference
20 and have attached thereto a mandate suspension justification
21 memorandum that:

22 (1) Identifies with specificity the regulation, rule,
23 procedure, standard, policy, guideline, schedule, manual or
24 similar document, or combination thereof, that imposes the
25 mandate or combination of mandates to be suspended.

26 (2) Describes how the mandate or combination of mandates
27 causes the entity to conduct or fulfill its authorized
28 activities, responsibilities, purposes or functions in a
29 manner that increases the entity's cost of doing so, or
30 prevents the entity from doing so in a more cost-effective or

1 educationally effective manner.

2 (3) Describes how suspension of the mandate or
3 combination of mandates will enable the entity to operate in
4 a different manner that will improve educational
5 effectiveness or cost effectiveness.

6 (4) Specifies the date the suspension of the mandate or
7 combination of mandates will expire or states that the
8 suspension will be indefinite.

9 (5) Outlines the procedures by which the economic and
10 educational benefits of suspending the mandate or combination
11 of mandates will be assessed, measured and reported on an
12 ongoing basis.

13 (c) Deemed approved.--Unless disapproved by the department
14 as provided in section 5, suspension of the mandates pursuant to
15 a resolution adopted under this section shall take effect 60
16 days after the department receives notice of the resolution or
17 upon such later date as may be specified in the resolution.

18 (d) Effective.--Unless a mandate suspension is disapproved,
19 expires or is resumed under section 7, the suspension shall
20 remain in effect indefinitely.

21 (e) Renewal.--The board of the school entity may renew a
22 mandate suspension that has expired or is set to expire by
23 adopting a mandate suspension resolution in the same manner
24 specified in this section.

25 (f) Public input.--The board of the school entity shall
26 conduct a public hearing for the purpose of receiving input
27 regarding whether the mandate or mandates should be suspended.

28 (g) Public access.--Mandate suspension resolutions and any
29 departmental determinations related thereto shall be posted on
30 the school entity's publicly accessible Internet website.

1 Section 4. Notice to the department and oversight agency.

2 (a) General rule.--A school entity adopting a mandate
3 suspension resolution shall promptly provide a copy of the
4 resolution and suspension justification memorandum to the
5 department and any other oversight agency by certified mail,
6 return receipt requested.

7 (b) Objections.--An oversight agency receiving notice of a
8 mandate suspension resolution may, within 30 days of receipt,
9 submit objections to the department. Objections shall state the
10 reason why the mandate suspension fails to meet the requirements
11 of this act.

12 Section 5. Actions by secretary.

13 (a) Disapproval.--The secretary may, within 60 days of
14 receipt of a mandate suspension resolution and upon
15 consideration of objectives, if any, disapprove the resolution
16 if the secretary determines that the resolution fails to meet
17 the requirements of this act.

18 (b) Effect.--If the department disapproves a mandate
19 suspension resolution, the mandate or combination of mandates
20 shall not be suspended and the school entity shall continue to
21 be subject to the mandate as otherwise applicable.

22 (c) Deemed approved.--If the department does not disapprove
23 a mandate suspension resolution within 60 days of receipt, the
24 mandate or combination of mandates shall be suspended and shall
25 no longer apply to the school entity unless the mandate
26 suspension expires in accordance with the terms of the mandate
27 suspension resolution or is resumed under section 7.

28 (d) Appeal.--Disapproval of mandate suspension resolutions
29 may be appealed by the school entity as provided in 2 Pa.C.S.
30 Ch. 7 Subch. A (relating to judicial review of Commonwealth

1 agency action).

2 Section 6. Reporting success of suspended mandates.

3 (a) Reporting.--Whenever any mandate or combination of
4 mandates is suspended under this act, the school entity shall,
5 on an ongoing basis, assess and measure the economic and
6 educational benefits of suspending the mandate or combination of
7 mandates, and shall prepare a report of the benefits on the
8 third anniversary of the effective date of the suspension and
9 each third anniversary thereafter.

10 (b) Submission.--Reports of the benefits of each mandate
11 suspension shall be submitted to the department within 90 days
12 after the third anniversary of the effective date of the
13 suspension and each third anniversary thereafter.

14 Section 7. Resumption of suspended mandates.

15 (a) Effectiveness of suspension.--The mandate or combination
16 of mandates shall resume upon the expiration of the mandate
17 suspension as stated in the mandate suspension resolution or if
18 either of the following occurs:

19 (1) the governing board of the school entity adopts a
20 resolution terminating the mandate suspension; or

21 (2) the department makes a final determination that the
22 entity has failed to submit a report of effectiveness as
23 required or has not enabled the entity to operate in a
24 different manner that improved educational effectiveness or
25 cost effectiveness.

26 (b) Notification to school entity.--The department shall
27 notify the school entity of any determination by the department
28 that the effect of a mandate suspension has not been measured
29 and reported as required or has not had the intended effect and
30 shall conduct a hearing thereon if requested by the school

1 entity.

2 (c) Appeal.--A determination by the department that the
3 effect of a mandate suspension has not been measured and
4 reported as required or has not had the intended effect may be
5 appealed by the school entity as provided in 2 Pa.C.S. Ch. 7
6 Subch. A (relating to judicial review of Commonwealth agency
7 action).

8 (d) Notice of resumption.--A school entity shall notify the
9 department and any oversight agency in writing when the
10 effectiveness of a mandate or combination of mandates is resumed
11 under this act. The notice shall include a copy of any
12 resolution terminating the suspension or of any final
13 determination of the department that the effect of a mandate
14 suspension has not been measured and reported as required or has
15 not had the intended effect.

16 Section 8. Mandate suspension register.

17 (a) Creation.--No later than 90 days after the effective
18 date of this section, the department shall create a searchable
19 register of suspended mandates for which it has received notice,
20 searchable and accessible to the public, via the department's
21 Internet website, from which website visitors may find for each
22 school district the mandates that have been suspended, the date
23 the suspension took effect, the expiration, if any, and the
24 date, if any, the mandate resumed.

25 (b) Links.--All listings of mandates on the mandate
26 suspension register shall include a link to the mandate
27 suspension resolution posted on the school entity's Internet
28 website and any determinations of the department related
29 thereto.

30 Section 9. Mandates not subject to suspension.

1 Mandates may not be suspended as provided in this act to the
2 extent they are imposed by the following:

3 (1) A court order.

4 (2) The Constitution of the United States.

5 (3) Federal law or Federal regulation.

6 (4) The Constitution of Pennsylvania.

7 (5) A law or regulation concerning the form,
8 organization, reorganization or structure of a school entity.

9 (6) A law or regulation governing elections.

10 (7) A law or regulation designating a public officer or
11 a duty or power of a public officer or the incompatible
12 offices of a public employee.

13 (8) A law or regulation regarding the ethics of a public
14 official or employee or the protection of the public from
15 malfeasance, misfeasance or nonfeasance by a public official
16 or employee of a school district.

17 (9) The provisions set forth in 2 Pa.C.S. Chs. 5 Subch.
18 B (relating to practice and procedure of local agencies) and
19 7 Subch. B (relating to judicial review of local agency
20 action) and other laws or regulations proscribing practices
21 and procedures relating to meetings, hearings and other
22 administrative adjudications on behalf of a school entity or
23 agency of a school entity.

24 (10) A law or regulation that involves the
25 administration of justice or procedures for administration
26 and judicial review of actions taken by a school entity.

27 (11) An existing contract, including a collective
28 bargaining agreement.

29 (12) The right to collectively bargain.

30 (13) The provisions of the act of June 2, 1915 (P.L.736,

1 No.338), known as the Workers' Compensation Act, and its
2 regulations.

3 (14) The provisions of the act of December 5, 1936 (2nd
4 Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment
5 Compensation Law, and its regulations.

6 (15) The provisions of the act of November 10, 1999
7 (P.L.491, No.45), known as the Pennsylvania Construction Code
8 Act, and any regulations promulgated under that act.

9 (16) A law or regulation related to public health and
10 safety.

11 (17) A law or regulation pertaining to the substantive
12 or procedural due process rights of students or employees.

13 (18) The provisions of 65 Pa.C.S. Ch. 7 (relating to
14 open meetings).

15 (19) The provisions of Chapter 7 of the act of February
16 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law, and
17 any regulations promulgated under that act.

18 (20) A law or regulation setting forth time lines and
19 notice requirements for the adoption of budgets by a school
20 district.

21 (21) A law or regulation requiring liability insurance.

22 (22) A law or regulation governing hazardous walking
23 routes for students.

24 (23) A law or regulation governing academic standards
25 and assessments.

26 (24) A law or regulation governing student attendance.

27 (25) A law or regulation governing charter school
28 tuition payments.

29 (26) A law or regulation prohibiting discrimination.

30 (27) The provisions of this act.

1 Section 10. Liability and immunity.

2 Nothing in this act nor any actions taken under this act,
3 including, but not limited to, the suspension of any mandate,
4 resumption of a mandate or the termination of suspension of a
5 mandate, shall have the effect of modifying, enlarging or
6 diminishing an existing legal basis for determining any aspect
7 of the civil or criminal liability of the Commonwealth, school
8 entities and officials or employees of the Commonwealth and
9 school entities.

10 Section 11. Effectiveness.

11 A suspension of mandates in accordance with this act shall
12 remain in effect notwithstanding the repeal, amendment or
13 expiration of this act.

14 Section 12. Effective date.

15 This act shall take effect in 30 days.