

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 612 Session of 2011

INTRODUCED BY FOLMER, SMUCKER, M. WHITE, RAFFERTY, EICHELBERGER, WAUGH, EARLL, PICCOLA, BRUBAKER, D. WHITE, ALLOWAY, VANCE, McILHINNEY, WARD, BROWNE, MENSCH AND YAW, FEBRUARY 18, 2011

SENATOR PICCOLA, EDUCATION, AS AMENDED, APRIL 5, 2011

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 professional employees, further
6 providing for causes for suspension AND FOR PERSONS TO BE
7 SUSPENDED.



8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

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, added
12 August 8, 1963 (P.L.564, No.299), 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 employes, 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, concurred in by the board

1 of school directors, approved by the Department of [Public  
2 Instruction] EDUCATION, as a result of substantial decline in  
3 class or course enrollments or to conform with standards of  
4 organization or educational activities required by law or  
5 recommended by the Department of [Public Instruction] EDUCATION;

6 (3) Consolidation of schools, whether within a single  
7 district, through a merger of districts, or as a result of joint  
8 board agreements, when such consolidation makes it unnecessary  
9 to retain the full staff of professional employees.

10 (4) When new school districts are established as the result  
11 of reorganization of school districts pursuant to Article II.,  
12 subdivision (i) of this act, and when such reorganization makes  
13 it unnecessary to retain the full staff of professional  
14 employes.

15 (5) Economic reasons, as part of a plan to reduce or control  
16 school district costs. A SCHOOL DISTRICT MAY NOT USE COSTS AS  
17 THE SOLE FACTOR IN DETERMINING WHICH PROFESSIONAL EMPLOYES TO  
18 SUSPEND.

19 (b) (1) The following shall apply to any suspension of a  
20 professional employe assigned to provide instruction directly to  
21 students:

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

27 (ii) The State Board SECRETARY of Education may, by a  
28 majority vote, grant a board of school directors a waiver of  
29 subparagraph (i) if the State Board SECRETARY of Education  
30 determines that compliance with subparagraph (i) is likely to

1 cause significant harm to the operations of the school district, ←  
2 THE SECRETARY OF EDUCATION SUBMITS THE DETERMINATION TO THE  
3 STATE BOARD OF EDUCATION AND THE STATE BOARD OF EDUCATION  
4 APPROVES THE DETERMINATION BY A MAJORITY OF ITS MEMBERS.

5 (2) For purposes of this subsection, "administrative staff"  
6 shall include, but not be limited to, superintendents, assistant  
7 superintendents, deputy superintendents, principals, assistant  
8 principals, supervisors, managers, directors, coordinators and  
9 any other staff who are not assigned to provide instruction  
10 directly to students.

11 SECTION 2. SECTION 1125.1 OF THE ACT, AMENDED OR ADDED ←  
12 NOVEMBER 20, 1979 (P.L.465, NO.97) AND JULY 10, 1986 (P.L.1270,  
13 NO.117), IS AMENDED TO READ:

14 SECTION 1125.1. PERSONS TO BE SUSPENDED.-- (A) PROFESSIONAL  
15 EMPLOYES SHALL BE SUSPENDED UNDER SECTION 1124 [(RELATING TO  
16 CAUSES FOR SUSPENSION) IN INVERSE ORDER OF SENIORITY WITHIN THE  
17 SCHOOL ENTITY OF CURRENT EMPLOYMENT. APPROVED LEAVES OF ABSENCE  
18 SHALL NOT CONSTITUTE A BREAK IN SERVICE FOR PURPOSES OF  
19 COMPUTING SENIORITY FOR SUSPENSION PURPOSES. SENIORITY SHALL  
20 CONTINUE TO ACCRUE DURING SUSPENSION AND ALL APPROVED LEAVES OF  
21 ABSENCE.] BASED UPON THE SCHOOL ENTITY'S EVALUATION OF THE  
22 FOLLOWING FACTORS IN DETERMINING WHICH EMPLOYES WILL BE  
23 SUSPENDED:

24 (1) THE PROFESSIONAL EMPLOYEE'S CERTIFICATION.

25 (2) THE PROFESSIONAL EMPLOYEE'S PERFORMANCE, INCLUDING, BUT  
26 NOT LIMITED TO, PERFORMANCE UNDER THE PENNSYLVANIA VALUE ADDED  
27 ASSESSMENT SYSTEM AND LOCAL SCHOOL ENTITY PERFORMANCE CRITERIA.

28 (3) FOR A PROFESSIONAL EMPLOYEE WHO TEACHES SUBJECTS THAT ARE  
29 NOT EVALUATED UNDER THE PENNSYLVANIA VALUE ADDED ASSESSMENT  
30 SYSTEM, WHETHER THE PROFESSIONAL EMPLOYEE MEETS QUALIFICATIONS

1 SET FORTH BY THE SCHOOL ENTITY TO TEACH A PARTICULAR SUBJECT OR  
2 GRADE LEVEL.

3 (4) SPECIFIC QUALIFICATIONS SET FORTH BY THE SCHOOL ENTITY.

4 (B) WHERE THERE IS OR HAS BEEN A CONSOLIDATION OF SCHOOLS,  
5 DEPARTMENTS OR PROGRAMS, ALL PROFESSIONAL EMPLOYEES SHALL RETAIN  
6 THE SENIORITY RIGHTS THEY HAD PRIOR TO THE REORGANIZATION OR  
7 CONSOLIDATION.

8 [(C) A SCHOOL ENTITY SHALL REALIGN ITS PROFESSIONAL STAFF SO  
9 AS TO INSURE THAT MORE SENIOR EMPLOYEES ARE PROVIDED WITH THE  
10 OPPORTUNITY TO FILL POSITIONS FOR WHICH THEY ARE CERTIFICATED  
11 AND WHICH ARE BEING FILLED BY LESS SENIOR EMPLOYEES.]

12 (D) (1) NO SUSPENDED EMPLOYEE SHALL BE PREVENTED FROM  
13 ENGAGING IN ANOTHER OCCUPATION DURING THE PERIOD OF SUSPENSION.

14 (2) SUSPENDED PROFESSIONAL EMPLOYEES OR PROFESSIONAL EMPLOYEES  
15 DEMOTED FOR THE REASONS SET FORTH IN SECTION 1124 SHALL BE  
16 REINSTATED ON THE BASIS OF [THEIR SENIORITY WITHIN THE SCHOOL  
17 ENTITY. NO NEW APPOINTMENT SHALL BE MADE WHILE THERE IS SUCH A  
18 SUSPENDED OR DEMOTED PROFESSIONAL EMPLOYEE AVAILABLE WHO IS  
19 PROPERLY CERTIFICATED TO FILL SUCH VACANCY.] THE SCHOOL ENTITY'S

20 EVALUATION OF THE CRITERIA LISTED IN SUBSECTION (A). FOR THE  
21 PURPOSE OF THIS SUBSECTION, POSITIONS FROM WHICH PROFESSIONAL  
22 EMPLOYEES ARE ON APPROVED LEAVES OF ABSENCE SHALL ALSO BE  
23 CONSIDERED TEMPORARY VACANCIES.

24 (3) TO BE CONSIDERED AVAILABLE A SUSPENDED PROFESSIONAL  
25 EMPLOYEE MUST ANNUALLY REPORT TO THE GOVERNING BOARD IN WRITING  
26 HIS CURRENT ADDRESS AND HIS INTENT TO ACCEPT THE SAME OR SIMILAR  
27 POSITION WHEN OFFERED.

28 (4) A SUSPENDED EMPLOYEE ENROLLED IN A COLLEGE PROGRAM DURING  
29 A PERIOD OF SUSPENSION AND WHO IS RECALLED SHALL BE GIVEN THE  
30 OPTION OF DELAYING HIS RETURN TO SERVICE UNTIL THE END OF THE

1 CURRENT SEMESTER.

2 (E) NOTHING CONTAINED IN SECTION 1125.1(A) THROUGH (D) SHALL  
3 BE CONSTRUED TO SUPERSEDE OR PREEMPT ANY PROVISIONS OF A  
4 COLLECTIVE BARGAINING AGREEMENT NEGOTIATED BY A SCHOOL ENTITY  
5 AND AN EXCLUSIVE REPRESENTATIVE OF THE EMPLOYEES IN ACCORDANCE  
6 WITH THE ACT OF JULY 23, 1970 (P.L.563, NO.195), KNOWN AS THE  
7 "PUBLIC EMPLOYE RELATIONS ACT[";]," AND IN EFFECT ON THE  
8 EFFECTIVE DATE OF SUBSECTION (G); HOWEVER, NO AGREEMENT SHALL  
9 PROHIBIT THE RIGHT OF A PROFESSIONAL EMPLOYE WHO IS NOT A MEMBER  
10 OF A BARGAINING UNIT FROM RETAINING SENIORITY RIGHTS UNDER THE  
11 PROVISIONS OF THIS ACT.

12 [(F) A DECISION TO SUSPEND IN ACCORDANCE WITH THIS SECTION  
13 SHALL BE CONSIDERED AN ADJUDICATION WITHIN THE MEANING OF THE  
14 "LOCAL AGENCY LAW."]

15 (G) WHERE A PROFESSIONAL EMPLOYE IS SUSPENDED UNDER THIS  
16 SECTION, THE PROFESSIONAL EMPLOYE'S POSITION SHALL REMAIN VACANT  
17 FOR AT LEAST ONE YEAR; PROVIDED, THAT THE SCHOOL ENTITY MAY  
18 REINSTATE AT ANY TIME THE PROFESSIONAL EMPLOYE WHO WAS  
19 SUSPENDED.

20 Section 2 3. This act shall take effect in 60 days.

