

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 793 Session of  
2011

INTRODUCED BY WOZNIAK, PICCOLA, EARLL AND McILHINNEY,  
MARCH 8, 2011

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AN ACT

1 Providing for reorganization of school districts, for  
2 reorganization plans, for exceptions, for transfer of  
3 property and assets, for initial board of school directors,  
4 for operational date and transfer of authority, for  
5 collective bargaining and for powers and duties of the  
6 Department of Education; and prescribing penalties.

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

9 Section 1. Short title.

10 This act shall be known and may be cited as the School  
11 District Efficiency and Consolidation Act.

12 Section 2. Definitions.

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

16 "Board." The State Board of Education.

17 "Department." The Department of Education of the  
18 Commonwealth.

19 "Operational date." The operational date established in  
20 accordance with section 9(a).

1 "Secretary." The Secretary of Education of the Commonwealth.

2 Section 3. Reorganization of school districts.

3 (a) General rule.--Each school district identified by the  
4 department under section 4(b) shall, within 90 days after being  
5 so identified:

6 (1) Enter into discussions with one or more contiguous  
7 school districts regarding the combination of the school  
8 districts to form a single reorganized school district.

9 (2) Combine with one or more other contiguous school  
10 districts to form a single reorganized school district,  
11 unless the school district is granted an exception by the  
12 department under section 6.

13 (b) Duty of contiguous school districts to discuss  
14 reorganization.--A school district contiguous to a school  
15 district identified in section 4(b) may not refuse to discuss  
16 reorganization unless the department grants the school district  
17 an exception under section 6.

18 (c) Voluntary reorganization.--Any two or more contiguous  
19 school districts may combine to create a reorganized school  
20 district in accordance with the provisions of this act.

21 (d) Resolution required.--

22 (1) The board of school directors of each school  
23 district desiring to form a reorganized school district  
24 shall, by a majority vote, adopt a resolution outlining the  
25 manner in which the school district plans to combine with one  
26 or more other school districts and shall file the resolution  
27 with the secretary.

28 (2) Within ten days after receipt of a resolution under  
29 paragraph (1), the secretary shall provide the school  
30 district with a preliminary determination of whether the

intended reorganization complies with the requirements of this act.

(e) Procedure.--Each school district planning to form a reorganized school district under this act must:

(1) Hold at least one public hearing within the school district not less than 30 days before adopting a resolution under subsection (d). All public hearings shall be subject to the provisions of 65 Pa.C.S. Ch. 7 (relating to open meetings).

(2) In cooperation with the one or more other school districts with which the school district plans to combine to form a reorganized school district:

(i) Develop a reorganization plan.

(ii) Form a reorganization planning committee. The reorganization planning committee shall hold two or more public hearings in each affected school district. All public hearings shall be subject to the provisions of 65 Pa.C.S. Ch. 7.

(f) Duty to submit efficiency plan to department.--A school district that does not reorganize under this section shall provide the department with a plan outlining administrative and operational efficiencies that have been or will be implemented on or after the effective date of this section, including, but not limited to, payroll, purchasing, legal services and transportation costs. The plan shall be provided to the department not later than 18 months after the effective date of this section.

Section 4. Reorganization guidelines and reorganization discussions.

(a) Duties of department.--

1           (1) No later than three months after the effective date  
2 of this section, the department shall issue guidelines to  
3 assist school districts with reorganization and the  
4 provisions of this act. The guidelines shall include:

5           (i) Procedures for the formation of a reorganization  
6 planning committee, including the representation of  
7 participating school districts, affected municipalities  
8 and members of the general public who are residents of  
9 the participating school districts and the roles and  
10 responsibilities of the committee.

11           (ii) The format and contents of a reorganization  
12 plan.

13           (iii) The timeline and instructions for submission  
14 of a reorganization plan.

15           (iv) Criteria for the department's approval of a  
16 reorganization plan.

17           (v) Procedures for requesting binding arbitration  
18 under section 5(d).

19           (2) The guidelines shall be posted on the department's  
20 Internet website and sent directly to each school district by  
21 either first class mail or e-mail. The department shall  
22 provide ongoing technical assistance with the reorganization  
23 process to all school districts seeking help from the  
24 department.

25           (b) Listing of certain school districts.--No later than six  
26 months after the effective date of this section, the department  
27 shall publish on its Internet website a listing of all school  
28 districts with an annual average daily membership of fewer than  
29 2,500 for the most recently completed school year.

30 Section 5. Reorganization plans.

1 (a) Duty to submit plan.--Each school district that plans to  
2 reorganize under section 3 shall submit to the secretary its  
3 proposed reorganization plan that includes the following:

4 (1) The units of school administration to be included in  
5 the proposed reorganized school district.

6 (2) The size, composition and apportionment of the  
7 initial board of school directors of the reorganized school  
8 district.

9 (3) The manner and time frame in which the initial board  
10 of school directors of the reorganized school district will  
11 transition to a permanent board of school directors following  
12 the reorganization, including how the membership of the board  
13 will be apportioned among the former component school  
14 districts.

15 (4) The disposition of real and personal school  
16 property.

17 (5) The disposition of existing school district  
18 indebtedness and lease-purchase obligations.

19 (6) The assignment of school district personnel  
20 contracts, collective bargaining agreements and other school  
21 district contractual obligations.

22 (7) The disposition of existing school district funds  
23 and financial obligations, including undesignated fund  
24 balances, trust funds, reserve funds and other funds  
25 appropriated for school district purposes.

26 (8) A transition plan that addresses the development of  
27 a budget for the first school year of the reorganized school  
28 district and interim personnel policies.

29 (9) Documentation of the public meetings held to prepare  
30 or review the reorganization plan.

1           (10) An estimate of the cost savings to be achieved by  
2 the formation of a reorganized school district and how the  
3 savings will be achieved.

4           (11) Such other matters as the governing bodies of the  
5 component former school districts comprising the proposed  
6 reorganized school district determine to be necessary.

7       (b) Conditions for approval.--To be approved by the  
8 secretary, a reorganization plan:

9           (1) Must provide comprehensive programming for all  
10 students from kindergarten to grade 12.

11          (2) Must include at least one publicly supported  
12 secondary school.

13          (3) May not displace teachers or students.

14          (4) May not close any schools existing and operating  
15 during the school year immediately preceding reorganization,  
16 except as currently provided by law or except where the  
17 health or safety of students, faculty or other staff is at  
18 risk.

19          (5) Must provide for the completion of the  
20 reorganization no later than five years after the effective  
21 date of this section, unless an extension is granted by the  
22 department.

23       (c) Action by secretary.--No later than 60 days after  
24 receiving a reorganization plan, the secretary shall take one of  
25 the following actions:

26           (1) If the secretary finds that the reorganization plan  
27 meets the requirements of this act, the secretary shall  
28 approve the plan and provide written notice to the component  
29 former school districts that the plan has been approved.

30           (2) If the secretary finds that the reorganization plan

1 does not meet the requirements of this act, the secretary  
2 shall return the plan to the school districts with written  
3 recommendations on what is needed for the plan to receive  
4 approval.

5 (d) Binding arbitration.--

6 (1) Within 30 days after the decision of the secretary  
7 under subsection (c), a school district that disagrees with  
8 the decision of the secretary shall submit the dispute to  
9 binding arbitration in lieu of bringing an action at law or  
10 in equity.

11 (2) The board of arbitration shall consist of three  
12 members selected as follows:

13 (i) Within five days of the request for arbitration,  
14 the board of school directors and the secretary each  
15 shall select one person to be appointed to the board of  
16 arbitration and submit the person's name to the Office of  
17 General Counsel. The Office of General Counsel shall  
18 immediately appoint the selected persons to the board of  
19 arbitration.

20 (ii) Within five days after their appointment, the  
21 arbitrators appointed under subparagraph (i) shall agree  
22 upon one person to be appointed to the board of  
23 arbitration and submit the person's name to the Office of  
24 General Counsel. The Office of General Counsel shall  
25 immediately appoint the arbitrator chosen under this  
26 subparagraph to serve as chair of the board of  
27 arbitrators.

28 (3) An arbitrator appointed under paragraph (1) may not  
29 be an employee or resident of the school district or an  
30 employee of the department.

1           (4) Upon its appointment, the board of arbitration shall  
2 commence its proceedings and within 30 days shall make its  
3 written determination, which shall be binding on the school  
4 district and the secretary.

5           (5) Whenever a panel of arbitrators is constituted under  
6 this section, costs of the arbitration shall be divided  
7 equally between the school district and the department,  
8 provided that each party shall be responsible for payment of  
9 its own attorney fees.

10          (e) Certificate of organization.--If a reorganization plan  
11 is approved by the secretary, the board shall issue a  
12 certificate of organization to the reorganized school district.

13 Section 6. Exceptions to reorganization.

14 No school district shall be required to reorganize under this  
15 act where one of the following applies:

16           (1) The department grants an exception based upon one or  
17 more of the following factors:

18               (i) Geography, including physical proximity and the  
19 size of the current school district.

20               (ii) Demographics, including student enrollment  
21 trends and the composition and nature of communities in  
22 the school district.

23               (iii) Economics, including existing collaborations  
24 to be preserved or enhanced opportunities to deliver  
25 commodities and services to be maximized.

26               (iv) Impact on property taxes, including where a  
27 school district would be required to increase the millage  
28 rate by more than 5% in order to equalize the millage  
29 rates among the school districts comprising the  
30 reorganized school district.

1           (v) Transportation, including the length of any bus  
2 routes that would result from a reorganization.

3           (vi) Population density.

4           (vii) Other unique circumstances, including the need  
5 to preserve existing or developing relationships, meet  
6 the needs of students, maximize educational opportunities  
7 for students and ensure equitable access to rigorous  
8 programs for all students.

9           (2) The department certifies that the school district  
10 has met adequate yearly progress in reading and math on the  
11 Pennsylvania System of School Assessment test for the five  
12 consecutive school years immediately preceding the effective  
13 date of this section and the school district's reported per-  
14 pupil expenditures for administrative costs are less than 4%  
15 of total per-pupil expenditures for the most recent school  
16 year.

17 Section 7. Transfer of property and assets.

18           (a) General rule.--The board of school directors of a  
19 reorganized school district shall determine what school property  
20 of the component former school districts is necessary to carry  
21 out the functions of the reorganized school district and shall  
22 request in writing that the board of school directors of each  
23 such component former school district transfer title to its  
24 school property and buildings to the reorganized school  
25 district.

26           (b) Assumption of indebtedness.--A reorganized school  
27 district shall assume the outstanding indebtedness of the  
28 component former school districts for school construction  
29 projects approved prior to the formation of the reorganized  
30 school district.

1 (c) Use of sinking funds and other moneys.--If the board of  
2 school directors of a reorganized school district has assumed  
3 the outstanding indebtedness of a component former school  
4 district, the board of school directors of the reorganized  
5 school district may, notwithstanding any other statute or any  
6 provision of any trust agreement, use any sinking fund or other  
7 money set aside by the component former school district to pay  
8 off the indebtedness for which the money was dedicated.

9 (d) Property, indebtedness and obligations.--

10 (1) All real and personal property, indebtedness and  
11 rental obligations to an approved building authority or  
12 nonprofit corporation, if any, of component former school  
13 districts forming a reorganized school district shall become  
14 the property, indebtedness and rental obligations of such  
15 reorganized school district.

16 (2) All rights of creditors against any of the component  
17 former school districts shall be preserved against the  
18 reorganized school district.

19 (3) All property vested in the component former school  
20 districts, all debts and taxes owing to any of the component  
21 former school districts and all moneys in the treasuries of  
22 the component former school districts shall be paid to the  
23 treasurer of the reorganized school district.

24 Section 8. Initial board of school directors.

25 (a) General rule.--The members of the boards of school  
26 directors of component former school districts shall compose the  
27 initial board of school directors of a reorganized school  
28 district until such time as a new board of school directors is  
29 established in accordance with the reorganization plan.

30 (b) Meetings.--The organization and meetings of the board of

1 school directors of a reorganized school district shall be  
2 subject to the provisions of Article IV of the act of March 10,  
3 1949 (P.L.30, No.14), known as the Public School Code of 1949.

4 (c) Powers and duties.--The board of school directors of the  
5 reorganized school district shall have such powers and duties as  
6 given to the board under Articles V and VI and other provisions  
7 of the Public School Code of 1949 that are necessary to carry  
8 out such powers and duties.

9 Section 9. Operational date and transfer of authority.

10 (a) General rule.--The board of school directors of a  
11 reorganized school district shall become operational on the date  
12 set by the secretary in the written approval of the  
13 reorganization plan. On and after the operational date, the  
14 reorganization shall be deemed final and may not be reversed.

15 (b) Assumption of management and control.--

16 (1) The board of school directors of the reorganized  
17 school district, on the date established under subsection

18 (a), shall assume responsibility for the management and  
19 control of the public schools and programs within the  
20 component former school districts.

21 (2) The component former school districts shall have no  
22 further responsibility, power or duty for the operation or  
23 control of the public schools and programs stated within the  
24 reorganization plan.

25 (c) Balance of accounts.--The balances remaining in the  
26 accounts of the component former school districts shall be paid  
27 to the treasurer of the reorganized school district and verified  
28 through an audit.

29 (d) Transfer of staff.--Except as limited by subsection (e)  
30 (1), all teachers and school employees who are employed by a

1 component former school district on the day prior to the date  
2 established under subsection (a) shall be transferred to and  
3 employed by the reorganized school district as of the date  
4 established under subsection (a).

5 (e) Duties to existing employees.--

6 (1) (i) Except as limited by paragraphs (2) and (3),  
7 the reorganized school district shall assume all legal  
8 obligations and duties that the component former school  
9 districts owed to their employees, including, but not  
10 limited to, those obligations and duties arising under  
11 Federal law, State law, collective bargaining agreements  
12 and individual employment contracts.

13 (ii) Nothing in this act shall be construed to  
14 either decrease or increase the rights and benefits of  
15 transferred employees or the employer.

16 (iii) The reorganized school district shall also  
17 maintain and honor any existing agreements, contracts or  
18 policies regarding the rights and benefits of retirees  
19 and former employees created by a component former school  
20 district.

21 (2) Teachers or other employees whose employment  
22 terminates by application of law or contract or by action of  
23 a component former school district before the date  
24 established under subsection (a) may not be transferred.

25 (3) (i) Teachers and other employees who are  
26 transferred to the reorganized school district prior to  
27 the completion of the applicable probationary period for  
28 their position shall be entitled to have the length of  
29 their probationary period calculated from their most  
30 recent date of employment by the component former school

1 district.

2 (ii) Such teachers and other employees may be  
3 terminated prior to the end of their probationary period,  
4 subject to the provisions of any collective bargaining  
5 agreement or individual employment contract.

6 (f) Superintendent contracts.--The contracts between each  
7 component former school district and its superintendents shall  
8 be transferred to the reorganized school district on the date  
9 established under subsection (a). The board of school directors  
10 of the reorganized school district shall determine the duties of  
11 the superintendents within the reorganized school district.

12 Section 10. Collective bargaining.

13 (a) General rule.--On the operational date, the board of  
14 school directors of the reorganized school district shall assume  
15 all of the obligations, duties, liabilities and rights of the  
16 component former school districts for all purposes under Article  
17 XI-A of the act of March 10, 1949 (P.L.30, No.14), known as the  
18 Public School Code of 1949, and the reorganized school district  
19 shall be considered a single employer. Notwithstanding any other  
20 provision of law, the responsibilities of the reorganized school  
21 district shall include:

22 (1) Continued recognition of all bargaining agents that  
23 represented any bargaining units of employees who were  
24 employed by a component former school district, pending  
25 completion of merger proceedings described in this section.

26 (2) Assumption and continued observance of all  
27 collective bargaining agreements between any such bargaining  
28 agent and a component former school district, which  
29 agreements continue in effect for the remainder of their  
30 unexpired terms unless the bargaining agent and the

1 reorganized school district mutually agree otherwise.

2 (3) Collective bargaining for an initial or successor  
3 collective bargaining agreement in any bargaining unit in  
4 which a collective bargaining agreement is not in effect on  
5 the operational date and for any interim agreement that may  
6 be required to align expiration dates in a reorganized school  
7 district-wide bargaining unit, as described in this section.

8 (b) Merger and structure of bargaining units.--

9 (1) As early as possible after reorganization, all  
10 bargaining units shall be structured on a reorganized school  
11 district-wide basis. Bargaining units that existed in the  
12 component former school districts shall merge in accordance  
13 with the procedures and criteria in this section. Merger into  
14 a reorganized school district-wide bargaining unit shall not  
15 be subject to approval or disapproval of employees.

16 (2) Merger into a reorganized school district-wide  
17 bargaining unit shall be completed according to the schedule  
18 contained in this section and no later than the latest  
19 expiration date of any collective bargaining agreement that  
20 covered any employees in the merged unit that was in effect  
21 on the operational date.

22 (3) There shall be one unit of teachers and, to the  
23 extent they are included in bargaining units on the effective  
24 date of this section, other certified professional employees,  
25 excluding principals and other administrators.

26 (4) Any additional bargaining units in a reorganized  
27 school district shall be structured as follows:

28 (i) In the initial establishment of the units, units  
29 shall be structured primarily on the basis of the  
30 existing pattern of organization in order to maintain the

1       grouping of employee classifications into bargaining  
2       units that existed prior to the creation of the  
3       reorganized school district and to avoid conflicts among  
4       different bargaining agents to the extent possible.

5       (ii) In the event of a dispute regarding the  
6       classifications to be included within a reorganized  
7       school district-wide bargaining unit, the current  
8       bargaining agent or agents or the reorganized school  
9       district may petition the Pennsylvania Labor Relations  
10      Board to determine the appropriate unit.

11      (5) When the same bargaining agent exists in all  
12      bargaining units that will be merged into a reorganized  
13      school district-wide bargaining unit, the units shall be  
14      merged as of the operational date, and the reorganized school  
15      district shall recognize the bargaining agent as the  
16      representative of the merged unit.

17      (6) (i) When all bargaining units that will be merged  
18      into a reorganized school district-wide bargaining unit  
19      are represented by separate local affiliates of the same  
20      State labor organization, the units shall be merged as of  
21      the operational date.

22      (ii) The identity of the single affiliate that will  
23      be designated the bargaining agent for the merged unit  
24      shall be selected by the existing bargaining agents and  
25      the State labor organization.

26      (iii) Upon completion of the merger and designation  
27      of the bargaining agent and notification by the State  
28      labor organization to the reorganized school district,  
29      the reorganized school district shall recognize the  
30      designated bargaining agent as the representative of

1 employees in the merged unit.

2 (iv) If necessary, the parties shall then execute a  
3 written amendment to any collective bargaining agreement  
4 then in effect to change the name of the bargaining agent  
5 to reflect the merger.

6 (7) (i) When there are bargaining units that will be  
7 merged into a reorganized school district-wide bargaining  
8 unit in which there are employees who are not represented  
9 by any bargaining agent and other employees who are  
10 represented either by the same bargaining agent or  
11 separate local affiliates of the same State labor  
12 organization, the units shall be merged as of the  
13 operational date, as long as a majority of employees who  
14 compose the merged unit were represented by the  
15 bargaining agent prior to the merger.

16 (ii) The procedures for merger of separate local  
17 affiliates of the same State labor organization described  
18 in paragraph (6) shall be followed if applicable.

19 (iii) If prior to the merger a bargaining agent did  
20 not represent a majority of employees who compose the  
21 merged unit, a bargaining agent election shall be  
22 conducted by the Pennsylvania Labor Relations Board under  
23 paragraph (10).

24 (8) When there are unexpired collective bargaining  
25 agreements with different expiration dates in the merged  
26 bargaining units described in paragraphs (5), (6) and (7),  
27 all contracts shall be honored to their expiration dates  
28 unless mutually agreed to otherwise by the public employer  
29 and the bargaining agent. Collective bargaining agreements  
30 shall be bargained on an interim basis in any merged

1 bargaining unit so that all collective bargaining agreements  
2 expire on the same date.

3 (9) When bargaining units with different bargaining  
4 agents are required to be merged into a single reorganized  
5 school district-wide bargaining unit under this section, the  
6 bargaining agent of the merged bargaining unit shall be  
7 selected in accordance with State law except as modified in  
8 this section.

9 (10) (i) A petition for an election to determine the  
10 bargaining agent must be filed with the Pennsylvania  
11 Labor Relations Board by any of the current bargaining  
12 agents or the reorganized school district.

13 (ii) The petition must be filed not more than 90  
14 days prior to the expiration date of the agreement having  
15 the latest expiration date among the bargaining units  
16 that will be merged into the reorganized school district-  
17 wide bargaining unit.

18 (iii) The election ballot may contain only the names  
19 of the bargaining agents of bargaining units that will be  
20 merged into the reorganized school district-wide  
21 bargaining unit and shall include the choice of "no  
22 representative." No showing of interest is required from  
23 any such bargaining agent other than its current status  
24 as representative.

25 (iv) The obligation to bargain with existing  
26 bargaining agents continues from the operational date  
27 until the determination of the bargaining agent of the  
28 reorganized school district-wide bargaining unit under  
29 this section. In no event may any collective bargaining  
30 agreement that is executed after the operational date

1 extend beyond the expiration date of the agreement having  
2 the latest expiration date among the bargaining units  
3 that will be merged into the reorganized school district-  
4 wide bargaining unit.

5 (v) The Pennsylvania Labor Relations Board shall  
6 expedite, to the extent practicable, all petitions for  
7 determination of the bargaining agent in the reorganized  
8 school district-wide bargaining unit filed under this  
9 section.

10 (vi) The bargaining units shall be merged into a  
11 reorganized school district-wide bargaining unit as of  
12 the date of certification of the results of the election  
13 by the Pennsylvania Labor Relations Board or the  
14 expiration of the collective bargaining agreements in the  
15 unit, whichever occurs later.

16 (c) Postmerger collective bargaining.--

17 (1) After the merger of bargaining units into a  
18 reorganized school district-wide bargaining unit, the  
19 bargaining agent of a reorganized school district-wide  
20 bargaining unit and the reorganized school district shall  
21 engage in collective bargaining for a collective bargaining  
22 agreement for the reorganized school district-wide bargaining  
23 unit.

24 (2) In the collective bargaining agreement for each  
25 reorganized school district-wide bargaining unit, the  
26 employment relations, policies, practices, salary schedules,  
27 hours and working conditions throughout the reorganized  
28 school district shall be made uniform and consistent, as soon  
29 as practicable.

30 (3) In the event that the parties are unable to agree

1       upon an initial reorganized school district-wide collective  
2       bargaining agreement, the parties shall use the dispute  
3       resolution procedures under State law to resolve their  
4       differences.

5       (d)   Applicability of other law.--The provisions of Article  
6   XI-A of the Public School Code of 1949 shall apply to all  
7   collective bargaining units established and contracts entered  
8   into after the effective date of this section.

9       (e)   Construction.--Nothing in this section shall be  
10   construed to invalidate, change or reform any contract or affect  
11   the rights of any employee covered by any contract in existence  
12   prior to the operational date of the reorganized school  
13   district.

14   Section 11.   Penalties.

15       In the case of a school district that fails to comply with  
16   section 3(a) or (b), the secretary shall withhold 25% of the  
17   school district's basic education subsidy until the school  
18   district complies.

19   Section 12.   Effective date.

20       This act shall take effect in 60 days.