
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1296 Session of
2011

INTRODUCED BY PICCOLA, SCARNATI, FOLMER, ERICKSON, BAKER,
BOSCOLA, ORIE, YUDICHAK, GREENLEAF, RAFFERTY, ALLOWAY,
MENSCH, VOGEL, BROWNE AND EARLL, OCTOBER 17, 2011

REFERRED TO EDUCATION, OCTOBER 17, 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," further providing for manner of
6 election or approval; providing for performance review;
7 further providing for election of assistant district
8 superintendents, for term and salary of assistants and for
9 removal; and making an editorial change.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Section 1073 of the act of March 10, 1949
13 (P.L.30, No.14), known as the Public School Code of 1949,
14 amended January 14, 1970 (1969 P.L.468, No.192) and January 16,
15 1974 (P.L.1, No.1), is amended to read:

16 Section 1073. Manner of Election or Approval.--(a) The
17 board of school directors of each school district[, except in
18 school districts of the first class,] shall meet at its regular
19 place of meeting, during the last year of the term of the
20 district superintendent or at any other time when a vacancy
21 shall occur in the office of district superintendent, at an hour

1 previously fixed by the board. The secretary of each board of
2 school directors shall mail to each member thereof at least five
3 days beforehand, a notice of the time, place and purpose of such
4 meeting. At such meeting the board shall elect or approve a
5 properly qualified district superintendent to enter into a
6 contract to serve [a term of from three to five years] an
7 initial term of three years from the first day of July next
8 following his election or from a time mutually agreed upon by
9 the duly elected district superintendent and the board of school
10 directors. The contract shall be subject to the act of February
11 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

12 (b) At a regular meeting of the board of school directors
13 occurring at least one hundred fifty (150) days prior to the
14 expiration date of the term of office of the district
15 superintendent, the agenda shall include an item requiring
16 affirmative action by five or more members of the board of
17 school directors to notify the district superintendent that the
18 board intends to retain him for a further term of [from] three
19 (3) [to five (5)] years or that another or other candidates will
20 be considered for the office. In the event that the board fails
21 to take such action at a regular meeting of the board of school
22 directors occurring at least one hundred fifty (150) days prior
23 to the expiration date of the term of office of the district
24 superintendent, he shall continue in office for a further term
25 of similar length to that which he is serving.

26 (d) The term of office or commission of a district
27 superintendent or assistant district superintendent shall not be
28 shortened by reason of the fact that the district in which he
29 serves shall be come part of a joint school, or by reason of the
30 fact that the district in which he serves shall become a part of

1 a new school district established as the result of
2 reorganization of school districts pursuant to Article II.,
3 subdivision (i) or section 224 of this act. Any district
4 superintendent, assistant districts superintendent or
5 supervising principal not selected as the district
6 superintendent of the joint school or newly established school
7 district in which the district he serves becomes a part shall be
8 assigned to a position or office for which he is eligible:
9 Provided, however, That in a new school district reorganized
10 under Article II., subdivision (i) or section 224 of this act,
11 he shall be assigned to a position or office which is
12 administrative or supervisory in nature only, but there shall be
13 no reduction in salary until the expiration of his commission.
14 Thereafter, unless elected to an office requiring a commission
15 he shall have the status of a professional employe: Provided,
16 That the board of school directors may adjust the salary
17 according to the classification of the position to which he may
18 be assigned, and that the period of service as a commissioned
19 district superintendent, assistant district superintendent or
20 associate superintendent shall be counted as time served as a
21 professional employe in determining his seniority rights.

22 (e) The following shall apply:

23 (1) Notwithstanding any other provision of law, no
24 individual shall be employed as a superintendent or assistant
25 superintendent by a school district except pursuant to a written
26 contract of employment expressly stating the terms and
27 conditions of employment.

28 (2) A contract for the employment of a superintendent or
29 assistant superintendent shall do all of the following:

30 (i) Contain the mutual and complete agreement between the

1 superintendent or assistant superintendent and the board of
2 school directors with respect to the terms and conditions of
3 employment.

4 (ii) Consistent with State Board of Education certification
5 requirements, specify the duties, responsibilities, job
6 description and performance expectations, including performance
7 criteria provided for under section 1073.1.

8 (iii) Incorporate all provisions relating to compensation
9 and benefits to be paid to or on behalf of the superintendent or
10 assistant superintendent.

11 (iv) Specify the term of employment and state that the
12 contract shall terminate immediately upon the expiration of the
13 term unless the contract is allowed to renew automatically under
14 subsection (b).

15 (v) Specify the termination, buyout and severance
16 provisions, including all postemployment compensation and the
17 period of time in which the compensation shall be provided.

18 (vi) Contain provisions relating to outside work that may be
19 performed, if any.

20 (vii) State that any modification to the contract must be in
21 writing.

22 (viii) State that the contract shall be governed by the laws
23 of this Commonwealth.

24 (ix) Limit compensation for unused sick leave to the maximum
25 compensation for unused sick leave under the teachers'
26 collective bargaining agreement for that district at the time of
27 the contract or renewal.

28 (x) Limit transferred sick leave from previous employment to
29 not more than 30 days.

30 (3) No agreement between the board of school directors and a

1 superintendent or assistant superintendent for a negotiated
2 severance of employment prior to the end of the specified
3 contract term shall provide for severance compensation to the
4 superintendent or assistant superintendent, including the
5 reasonable value of any noncash severance benefits or
6 postemployment benefits not otherwise accruing under the
7 contract or pursuant to law, that:

8 (i) If the agreement takes effect two years or more prior to
9 the end of the specified contract term, exceeds the equivalent
10 of one year's compensation and benefits otherwise due under the
11 contract.

12 (ii) If the agreement takes effect less than two years prior
13 to the end of the specified contract term, exceeds the
14 equivalent of one-half of the total compensation and benefits
15 due under the contract for the remainder of the term.

16 Section 2. The act is amended by adding a section to read:

17 Section 1073.1. Performance Review.--(a) In addition to any
18 other requirements provided for under this act, the board of
19 school directors may include objective performance standards in
20 a contract for the district superintendent and assistant
21 superintendent. The objective criteria may be established by the
22 board of directors and may be based upon the following:

23 (1) achievement of annual measurable objectives established
24 by the school district in compliance with the No Child Left
25 Behind Act of 2001;

26 (2) achievement on Pennsylvania System of School Assessment
27 (PSSA) tests;

28 (3) achievement on Keystone Exams;

29 (4) student growth as measured by the Pennsylvania Value-
30 Added Assessment System;

1 (5) attrition rates or graduation rates;
2 (6) financial management standards;
3 (7) standards of operational excellence; or
4 (8) any additional criteria deemed relevant by the board of
5 school directors.

6 (b) The board of school directors shall establish a time
7 frame for periodic performance evaluations of the district
8 superintendent and assistant district superintendent and shall
9 include the time frame within the contract.

10 (c) The State Board of Education may promulgate regulations
11 pursuant to the act of June 25, 1982 (P.L.633, No.181), known as
12 the Regulatory Review Act, in order to implement this section.

13 Section 3. Sections 1076 and 1077 of the act, amended
14 January 16, 1974 (P.L.1, No.1), are amended to read:

15 Section 1076. Election of Assistant District
16 Superintendents, Except in Districts First Class.--Except in
17 districts of the first class, assistant district superintendents
18 shall be chosen by a majority vote of all the members of the
19 board of school directors of the district, for a term of [from]
20 three [to five] years upon the nomination by the district
21 superintendent.

22 Section 1077. Term and Salary of Assistants.--Assistant
23 district superintendents may serve through the term of the
24 district superintendent, or enter a contract for a term of
25 [from] three [to five] years at salaries paid by the district,
26 and fixed by a majority vote of the whole board of school
27 directors prior to their election. The contract shall be subject
28 to the act of February 14, 2008 (P.L.6, No.3), known as the
29 Right-to-Know Law.

30 At a regular meeting of the board of school directors

1 occurring at least one hundred fifty (150) days prior to the
2 expiration date of the term of office of the assistant district
3 superintendent, the agenda shall include an item requiring
4 affirmative action by five (5) or more members of the board of
5 school directors to notify the assistant district superintendent
6 that the board intends to retain him for a further term of
7 [from] three (3) [to five (5)] years or that another or other
8 candidates will be considered for the office. In the event that
9 the board fails to take such action at a regular meeting of the
10 board of school directors occurring at least one hundred fifty
11 (150) days prior to the expiration date of the term of office of
12 the assistant district superintendent, he shall continue in
13 office for a further term of similar length to that which he is
14 serving.

15 Section 4. Section 1078 of the act, amended January 14, 1970
16 (1969 P.L.468, No.192), is amended to read:

17 Section 1078. Commissions.--District superintendents and
18 assistant district superintendents shall be commissioned by the
19 [Superintendent of Public Instruction] Secretary of Education.

20 Section 5. Section 1080 of the act is amended to read:

21 Section 1080. Removal.--(a) District superintendents and
22 assistant district superintendents may be removed from office
23 and have their contracts terminated, after hearing, by a
24 majority vote of the board of school directors of the district,
25 for neglect of duty, for failure to meet the terms of the
26 contract, incompetency, intemperance, or immorality, of which
27 hearing notice of at least one week has been sent by mail to the
28 accused, as well as to each member of the board of school
29 directors.

30 (b) The board of school directors shall publicly disclose at

1 the next regularly scheduled monthly meeting the cause or reason
2 for the removal from office of a district superintendent or
3 assistant district superintendent under subsection (a).

4 (c) Proceedings under this section shall be held under 2
5 Pa.C.S. Ch. 5 Subch. B (relating to practice and procedure of
6 local agencies).

7 Section 6. The amendment or addition of sections 1073,
8 1073.1, 1076, 1077, 1078 and 1080 of the act shall apply to
9 contracts of district superintendents or assistant district
10 superintendents entered into or renewed on or after the
11 effective date of this section.

12 Section 7. This act shall take effect in 60 days.