

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, EARLL, FERLO AND DINNIMAN,
OCTOBER 17, 2011

SENATOR PICCOLA, EDUCATION, AS AMENDED, MARCH 6, 2012

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; PROVIDING FOR SUPERINTENDENTS OF SCHOOLS OR
10 BUILDINGS AND OF SUPPLIES; and making an editorial change. ←

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

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

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

1 shall occur in the office of district superintendent, at an hour
2 previously fixed by the board. The secretary of each board of
3 school directors shall mail to each member thereof at least five
4 days beforehand, a notice of the time, place and purpose of such
5 meeting. At such meeting the board shall elect or approve a
6 properly qualified district superintendent to enter into a
7 contract to serve ~~{a term of [from] three to five years}~~ ~~an~~ ←
8 initial term of three years from the first day of July next
9 following his election or from a time mutually agreed upon by
10 the duly elected district superintendent and the board of school
11 directors. IF THE QUALIFIED DISTRICT SUPERINTENDENT HAS NO PRIOR ←
12 EXPERIENCE AS A DISTRICT SUPERINTENDENT, THE INITIAL CONTRACT
13 SHALL BE FOR A PERIOD NOT TO EXCEED THREE YEARS. The contract
14 shall be subject to the act of February 14, 2008 (P.L.6, No.3),
15 known as the Right-to-Know Law.

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

30 (d) The term of office or commission of a district

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

26 (e) The following shall apply:

27 (1) Notwithstanding any other provision of law, no
28 individual shall be employed as a DISTRICT superintendent or ←
29 assistant DISTRICT superintendent by a school district except ←
30 pursuant to a written contract of employment expressly stating

1 the terms and conditions of employment.

2 (2) A contract for the employment of a DISTRICT ←
3 superintendent or assistant DISTRICT superintendent shall do all ←
4 of the following:

5 (i) Contain the mutual and complete agreement between the
6 DISTRICT superintendent or assistant DISTRICT superintendent and ←
7 the board of school directors with respect to the terms and
8 conditions of employment.

9 (ii) Consistent with State Board of Education certification
10 requirements, specify the duties, responsibilities, job
11 description and performance expectations, including performance
12 criteria STANDARDS AND ASSESSMENTS provided for under section ←
13 1073.1.

14 (iii) Incorporate all provisions relating to compensation
15 and benefits to be paid to or on behalf of the DISTRICT ←
16 superintendent or assistant DISTRICT superintendent. ←

17 (iv) Specify the term of employment and state that the
18 contract shall terminate immediately, EXCEPT AS OTHERWISE ←
19 PROVIDED UNDER THIS SECTION, upon the expiration of the term
20 unless the contract is allowed to renew automatically under
21 subsection (b).

22 (v) Specify the termination, buyout and severance
23 provisions, including all postemployment compensation and the
24 period of time in which the compensation shall be provided.
25 TERMINATION, BUYOUT AND SEVERANCE PROVISIONS MAY NOT BE MODIFIED ←
26 DURING THE COURSE OF THE CONTRACT OR IN THE EVENT A CONTRACT IS
27 TERMINATED PREMATURELY.

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

30 (vii) State that any modification to the contract must be in

1 writing.

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

4 (ix) Limit compensation for unused sick leave to the maximum ←
5 compensation for unused sick leave under the teachers'
6 collective bargaining agreement for that district at the time of
7 the contract or renewal IN NEW EMPLOYMENT CONTRACTS ENTERED INTO ←
8 AFTER THE EFFECTIVE DATE OF THIS SUBSECTION FOR DISTRICT
9 SUPERINTENDENTS OR ASSISTANT DISTRICT SUPERINTENDENTS WHO HAVE
10 NO PRIOR EXPERIENCE AS A DISTRICT SUPERINTENDENT OR ASSISTANT
11 DISTRICT SUPERINTENDENT TO THE MAXIMUM COMPENSATION FOR UNUSED
12 SICK LEAVE UNDER THE SCHOOL DISTRICT'S ADMINISTRATOR
13 COMPENSATION PLAN UNDER SECTION 1164 IN EFFECT AT THE TIME OF
14 THE CONTRACT.

15 (x) Limit transferred sick leave from previous employment to
16 not more than 30 days IN NEW EMPLOYMENT CONTRACTS AFTER THE ←
17 EFFECTIVE DATE OF THIS SUBSECTION FOR DISTRICT SUPERINTENDENTS
18 OR ASSISTANT DISTRICT SUPERINTENDENTS WHO HAVE NO PRIOR
19 EXPERIENCE AS A DISTRICT SUPERINTENDENT OR ASSISTANT DISTRICT
20 SUPERINTENDENT.

21 (XI) SPECIFY POSTRETIREMENT BENEFITS AND THE PERIOD OF TIME ←
22 IN WHICH THE BENEFITS SHALL BE PROVIDED.

23 (3) No agreement between the board of school directors and a
24 DISTRICT superintendent or assistant DISTRICT superintendent for ←
25 a negotiated severance of employment prior to the end of the
26 specified contract term shall provide for severance compensation
27 to the DISTRICT superintendent or assistant DISTRICT ←
28 superintendent, including the reasonable value of any noncash
29 severance benefits or postemployment benefits not otherwise

1 accruing under the contract or pursuant to law, that:

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

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

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

11 Section 1073.1. Performance Review.--(a) In addition to any
12 other requirements provided for under this act, the board of ←
13 school directors may include objective performance standards in
14 a contract for the district superintendent and assistant
15 superintendent. The objective criteria may be established by the
16 board of directors and may be based upon the following OTHER ←
17 REQUIREMENTS PROVIDED FOR UNDER THIS ACT, THE EMPLOYMENT
18 CONTRACT FOR A DISTRICT SUPERINTENDENT OR ASSISTANT DISTRICT
19 SUPERINTENDENT SHALL INCLUDE OBJECTIVE PERFORMANCE STANDARDS
20 MUTUALLY AGREED TO IN WRITING BY THE BOARD OF SCHOOL DIRECTORS
21 AND THE DISTRICT SUPERINTENDENT OR ASSISTANT DISTRICT
22 SUPERINTENDENT. THE OBJECTIVE PERFORMANCE STANDARDS MAY BE BASED
23 UPON THE FOLLOWING:

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

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

29 (3) achievement on Keystone Exams;

30 (4) student growth as measured by the Pennsylvania Value-

1 Added Assessment System;
2 (5) attrition rates or graduation rates;
3 (6) financial management standards;
4 (7) standards of operational excellence; or
5 (8) any additional criteria deemed relevant AND MUTUALLY ←
6 AGREED TO by the board of school directors AND THE DISTRICT ←
7 SUPERINTENDENT OR ASSISTANT DISTRICT SUPERINTENDENT.

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

12 (B) THE BOARD OF SCHOOL DIRECTORS SHALL CONDUCT A FORMAL ←
13 WRITTEN PERFORMANCE ASSESSMENT OF THE DISTRICT SUPERINTENDENT
14 AND ASSISTANT DISTRICT SUPERINTENDENT ANNUALLY. A TIME FRAME FOR
15 THE ASSESSMENT SHALL BE INCLUDED IN THE CONTRACT.

16 (B.1) THE BOARD OF SCHOOL DIRECTORS SHALL POST THE MUTUALLY
17 AGREED TO OBJECTIVE PERFORMANCE STANDARDS CONTAINED IN THE
18 CONTRACT ON THE SCHOOL DISTRICT'S PUBLICLY ACCESSIBLE INTERNET
19 WEBSITE. UPON COMPLETION OF THE ANNUAL PERFORMANCE ASSESSMENT,
20 THE BOARD OF SCHOOL DIRECTORS SHALL POST THE DATE OF THE
21 ASSESSMENT AND WHETHER OR NOT THE DISTRICT SUPERINTENDENT AND
22 ASSISTANT DISTRICT SUPERINTENDENT HAVE MET THE AGREED TO
23 OBJECTIVE PERFORMANCE STANDARDS ON THE SCHOOL DISTRICT'S
24 PUBLICLY ACCESSIBLE INTERNET WEBSITE.

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

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

30 Section 1076. Election of Assistant District

1 Superintendents[, Except in Districts First Class].--[Except in
2 districts of the first class, assistant] ASSISTANT district
3 superintendents shall be chosen by a majority vote of all the
4 members of the board of school directors of the district, for a
5 term of [from] three ~~to five~~ years upon the nomination by the
6 district superintendent. IF THE ASSISTANT DISTRICT
7 SUPERINTENDENT HAS NO PRIOR EXPERIENCE AS A DISTRICT
8 SUPERINTENDENT OR ASSISTANT DISTRICT SUPERINTENDENT, THE INITIAL
9 CONTRACT SHALL BE FOR A PERIOD NOT TO EXCEED THREE YEARS.

10 Section 1077. Term and Salary of Assistants.--Assistant
11 district superintendents may serve through the term of the
12 district superintendent, or enter a contract for a term of
13 [from] three ~~to five~~ years at salaries paid by the district,
14 and fixed by a majority vote of the whole board of school
15 directors prior to their election. IF THE ASSISTANT DISTRICT
16 SUPERINTENDENT HAS NO PRIOR EXPERIENCE AS A DISTRICT
17 SUPERINTENDENT OR ASSISTANT DISTRICT SUPERINTENDENT, THE INITIAL
18 CONTRACT SHALL BE FOR A PERIOD NOT TO EXCEED THREE YEARS. The
19 contract shall be subject to the act of February 14, 2008
20 (P.L.6, No.3), known as the Right-to-Know Law.

21 At a regular meeting of the board of school directors
22 occurring at least one hundred fifty (150) days prior to the
23 expiration date of the term of office of the assistant district
24 superintendent, the agenda shall include an item requiring
25 affirmative action by five (5) or more members of the board of
26 school directors to notify the assistant district superintendent
27 that the board intends to retain him for a further term of
28 [from] three (3) ~~to five (5)~~ years or that another or other
29 candidates will be considered for the office. In the event that
30 the board fails to take such action at a regular meeting of the

1 board of school directors occurring at least one hundred fifty
2 (150) days prior to the expiration date of the term of office of
3 the assistant district superintendent, he shall continue in
4 office for a further term of similar length to that which he is
5 serving.

6 Section 4. Section 1078 of the act, amended January 14, 1970
7 (1969 P.L.468, No.192), is amended to read:

8 Section 1078. Commissions.--District superintendents and
9 assistant district superintendents shall be commissioned by the
10 [Superintendent of Public Instruction] Secretary of Education.

11 Section 5. ~~Section 1080 of the act is~~ SECTIONS 1080 AND 2104 ←
12 OF THE ACT ARE amended to read:

13 Section 1080. Removal.--(a) District superintendents and
14 assistant district superintendents may be removed from office
15 and have their contracts terminated, after hearing, by a
16 majority vote of the board of school directors of the district,
17 for neglect of duty, ~~for failure to meet the terms of the~~ ←
18 contract, incompetency, intemperance, or immorality, of which
19 hearing notice of at least one week has been sent by mail to the
20 accused, as well as to each member of the board of school
21 directors.

22 (b) The board of school directors shall publicly disclose at
23 the next regularly scheduled monthly meeting the cause or reason
24 for the removal from office of a district superintendent or
25 assistant district superintendent under subsection (a).

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

29 SECTION 2104. SUPERINTENDENTS OF SCHOOLS OR BUILDINGS AND OF ←
30 SUPPLIES.--THE BOARD OF PUBLIC EDUCATION IN EACH SCHOOL DISTRICT

1 OF THE FIRST CLASS SHALL, WHENEVER A VACANCY IN SAID OFFICE
2 SHALL OCCUR, APPOINT A DISTRICT SUPERINTENDENT, WHO SHALL BE
3 DESIGNATED AND KNOWN AS SUPERINTENDENT OF SCHOOLS[, FOR A TERM
4 OF NOT MORE THAN SIX (6) YEARS]. THE BOARD MAY ALSO APPOINT A
5 SUPERINTENDENT OF BUILDINGS AND A SUPERINTENDENT OF SUPPLIES.
6 THE BOARD SHALL PRESCRIBE THE TERMS AND DUTIES AND FIX THE
7 SALARIES OF EACH OF SUCH EMPLOYES. THEY SHALL BE RESPONSIBLE TO
8 THE BOARD FOR THE CONDUCT OF THEIR RESPECTIVE DEPARTMENTS, SHALL
9 MAKE ANNUAL REPORTS TO THE BOARD, AND SHALL FROM TIME TO TIME
10 SUBMIT SUCH PLANS AND SUGGESTIONS FOR THE IMPROVEMENT OF THE
11 SCHOOLS AND THE SCHOOL SYSTEM AS THEY SHALL DEEM EXPEDIENT OR AS
12 THE BOARD OF PUBLIC EDUCATION MAY REQUIRE.

13 THE SUPERINTENDENT OF BUILDINGS SHALL BE AN ENGINEER OR
14 ARCHITECT OF GOOD STANDING IN HIS PROFESSION. THE SUPERINTENDENT
15 OF BUILDINGS AND THE SUPERINTENDENT OF SUPPLIES SHALL EACH GIVE
16 SUCH SECURITY FOR THE FAITHFUL PERFORMANCE OF THE DUTIES OF
17 THEIR RESPECTIVE OFFICES AS THE BOARD OF PUBLIC EDUCATION SHALL
18 PRESCRIBE.

19 Section 6. The amendment or addition of sections 1073,
20 1073.1, 1076, 1077, 1078 and 1080 of the act shall apply to
21 contracts of district superintendents or assistant district
22 superintendents entered into or renewed on or after the
23 effective date of this section.

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