

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

AS REPORTED FROM COMMITTEE ON EDUCATION, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 9, 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," IN DISTRICT SUPERINTENDENTS AND
6 ASSISTANT DISTRICT SUPERINTENDENTS, further providing FOR
7 ELIGIBILITY, for manner of election or approval; providing
8 for performance review; AND further providing for election of
9 assistant district superintendents, for term and salary of
10 assistants and for removal; IN SCHOOL DISTRICTS OF THE FIRST
11 CLASS, FURTHER providing for superintendents of schools or
12 buildings and of supplies; and making an editorial change.

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13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 ~~Section 1. Section 1073 of the act of March 10, 1949—~~
16 ~~(P.L.30, No.14), known as the Public School Code of 1949,~~
17 ~~amended January 14, 1970 (1969 P.L.468, No.192) and January 16,~~
18 ~~1974 (P.L.1, No.1), is amended to read:~~

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19 SECTION 1. SECTION 1003(B) OF THE ACT OF MARCH 10, 1949
20 (P.L.30, NO.14), KNOWN AS THE PUBLIC SCHOOL CODE OF 1949,
21 AMENDED JUNE 30, 2011 (P.L.112, NO.24), IS AMENDED TO READ:

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1 SECTION 1003. ELIGIBILITY.--* * *

2 (B) NOTWITHSTANDING THE REQUIREMENTS OF SUBSECTION (A), A
3 PERSON SHALL BE ELIGIBLE FOR ELECTION OR APPOINTMENT AS A
4 DISTRICT SUPERINTENDENT OR ASSISTANT DISTRICT SUPERINTENDENT IF
5 HE HOLDS A GRADUATE DEGREE FROM AN ACCREDITED HIGHER EDUCATION
6 INSTITUTION IN BUSINESS, MANAGEMENT OR FINANCE OR HAS EARNED A
7 JURIS DOCTORATE DEGREE FROM AN ACCREDITED LAW SCHOOL AND HAS AT
8 LEAST FOUR (4) YEARS OF RELEVANT EXPERIENCE IN BUSINESS,
9 FINANCE, LAW OR MANAGEMENT.

10 * * *

11 SECTION 1.1. SECTION 1073 OF THE ACT, AMENDED JANUARY 14,
12 1970 (1969 P.L.468, NO.192) AND JANUARY 16, 1974 (P.L.1, NO.1),
13 IS AMENDED TO READ:

14 Section 1073. Manner of Election or Approval.--(a) The
15 board of school directors of each school district[, except in
16 school districts of the first class,] shall meet at its regular
17 place of meeting, during the last year of the term of the
18 district superintendent or at any other time when a vacancy
19 shall occur in the office of district superintendent, at an hour
20 previously fixed by the board. The secretary of each board of
21 school directors shall mail to each member thereof at least five
22 days beforehand, a notice of the time, place and purpose of such
23 meeting. At such meeting the board shall elect or approve a
24 properly qualified district superintendent to enter into a
25 contract to serve a term of [from] three to five years from the
26 first day of July next following his election or from a time
27 mutually agreed upon by the duly elected district superintendent
28 and the board of school directors. If the qualified district
29 superintendent has no prior experience as a district
30 superintendent, the initial contract shall be for a period not

1 to exceed three years. The contract shall be subject to the act
2 of February 14, 2008 (P.L.6, No.3), known as the "Right-to-Know
3 Law."

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

18 (d) The term of office or commission of a district
19 superintendent or assistant district superintendent shall not be
20 shortened by reason of the fact that the district in which he
21 serves shall be come part of a joint school, or by reason of the
22 fact that the district in which he serves shall become a part of
23 a new school district established as the result of
24 reorganization of school districts pursuant to Article II.,
25 subdivision (i) or section 224 of this act. Any district
26 superintendent, assistant districts superintendent or
27 supervising principal not selected as the district
28 superintendent of the joint school or newly established school
29 district in which the district he serves becomes a part shall be
30 assigned to a position or office for which he is eligible:

1 Provided, however, That in a new school district reorganized
2 under Article II., subdivision (i) or section 224 of this act,
3 he shall be assigned to a position or office which is
4 administrative or supervisory in nature only, but there shall be
5 no reduction in salary until the expiration of his commission.
6 Thereafter, unless elected to an office requiring a commission
7 he shall have the status of a professional employe: Provided,
8 That the board of school directors may adjust the salary
9 according to the classification of the position to which he may
10 be assigned, and that the period of service as a commissioned
11 district superintendent, assistant district superintendent or
12 associate superintendent shall be counted as time served as a
13 professional employe in determining his seniority rights.

14 (e) The following shall apply:

15 (1) Notwithstanding any other provision of law, no
16 individual shall be employed as a district superintendent or
17 assistant district superintendent by a school district except
18 pursuant to a written contract of employment expressly stating
19 the terms and conditions of employment.

20 (2) A contract for the employment of a district
21 superintendent or assistant district superintendent shall do all
22 of the following:

23 (i) Contain the mutual and complete agreement between the
24 district superintendent or assistant district superintendent and
25 the board of school directors with respect to the terms and
26 conditions of employment.

27 (ii) Consistent with State Board of Education certification
28 requirements, specify the duties, responsibilities, job
29 description and performance expectations, including performance
30 standards and assessments provided for under section 1073.1.

1 (iii) Incorporate all provisions relating to compensation
2 and benefits to be paid to or on behalf of the district
3 superintendent or assistant district superintendent.

4 (iv) Specify the term of employment and state that the
5 contract shall terminate immediately, except as otherwise
6 provided under this section, upon the expiration of the term
7 unless the contract is allowed to renew automatically under
8 subsection (b).

9 (v) Specify the termination, buyout and severance
10 provisions, including all postemployment compensation and the
11 period of time in which the compensation shall be provided.
12 Termination, buyout and severance provisions may not be modified
13 during the course of the contract or in the event a contract is
14 terminated prematurely.

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

17 (vii) State that any modification to the contract must be in
18 writing.

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

21 (ix) Limit compensation for unused sick leave in new
22 employment contracts entered into after the effective date of
23 this subsection for district superintendents or assistant
24 district superintendents who have no prior experience as a
25 district superintendent or assistant district superintendent to
26 the maximum compensation for unused sick leave under the school
27 district's administrator compensation plan under section 1164 in
28 effect at the time of the contract.

29 (x) Limit transferred sick leave from previous employment to
30 not more than thirty (30) days in new employment contracts after

1 the effective date of this subsection for district
2 superintendents or assistant district superintendents who have
3 no prior experience as a district superintendent or assistant
4 district superintendent.

5 (xi) Specify postretirement benefits and the period of time
6 in which the benefits shall be provided.

7 (3) No agreement between the board of school directors and a
8 district superintendent or assistant district superintendent for
9 a negotiated severance of employment prior to the end of the
10 specified contract term shall provide for severance compensation
11 to the district superintendent or assistant district
12 superintendent, including the reasonable value of any noncash
13 severance benefits or postemployment benefits not otherwise
14 accruing under the contract or pursuant to law, that:

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

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

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

24 Section 1073.1. Performance Review.--(a) In addition to any
25 other requirements provided for under this act, the employment
26 contract for a district superintendent or assistant district
27 superintendent shall include objective performance standards
28 mutually agreed to in writing by the board of school directors
29 and the district superintendent or assistant district

1 superintendent. The objective performance standards may be based
2 upon the following:

3 (1) achievement of annual measurable objectives established
4 by the school district;

5 (2) achievement on Pennsylvania System of School Assessment
6 (PSSA) tests;

7 (3) achievement on Keystone Exams;

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

10 (5) attrition rates or graduation rates;

11 (6) financial management standards;

12 (7) standards of operational excellence; or

13 (8) any additional criteria deemed relevant and mutually
14 agreed to by the board of school directors and the district
15 superintendent or assistant district superintendent.

16 (b) The board of school directors shall conduct a formal
17 written performance assessment of the district superintendent
18 and assistant district superintendent annually. A time frame for
19 the assessment shall be included in the contract.

20 (b.1) The board of school directors shall post the mutually
21 agreed to objective performance standards contained in the
22 contract on the school district's publicly accessible Internet
23 website. Upon completion of the annual performance assessment,
24 the board of school directors shall post the date of the
25 assessment and whether or not the district superintendent and
26 assistant district superintendent have met the agreed to
27 objective performance standards on the school district's
28 publicly accessible Internet website.

29 (c) The State Board of Education may promulgate regulations
30 pursuant to the act of June 25, 1982 (P.L.633, No.181), known as

1 the "Regulatory Review Act," in order to implement this section.

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

4 Section 1076. Election of Assistant District
5 Superintendents[, Except in Districts First Class].--[Except in
6 districts of the first class, assistant] Assistant district
7 superintendents shall be chosen by a majority vote of all the
8 members of the board of school directors of the district, for a
9 term of [from] three to five years upon the nomination by the
10 district superintendent. If the assistant district
11 superintendent has no prior experience as a district
12 superintendent or assistant district superintendent, the initial
13 contract shall be for a period not to exceed three years.

14 Section 1077. Term and Salary of Assistants.--Assistant
15 district superintendents may serve through the term of the
16 district superintendent, or enter a contract for a term of
17 [from] three to five years at salaries paid by the district, and
18 fixed by a majority vote of the whole board of school directors
19 prior to their election. If the assistant district
20 superintendent has no prior experience as a district
21 superintendent or assistant district superintendent, the initial
22 contract shall be for a period not to exceed three years. The
23 contract shall be subject to the act of February 14, 2008
24 (P.L.6, No.3), known as the "Right-to-Know Law."

25 At a regular meeting of the board of school directors
26 occurring at least one hundred fifty (150) days prior to the
27 expiration date of the term of office of the assistant district
28 superintendent, the agenda shall include an item requiring
29 affirmative action by five (5) or more members of the board of
30 school directors to notify the assistant district superintendent

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

10 Section 4. Section 1078 of the act, amended January 14, 1970
11 (1969 P.L.468, No.192), is amended to read:

12 Section 1078. Commissions.--District superintendents and
13 assistant district superintendents shall be commissioned by the
14 [Superintendent of Public Instruction] Secretary of Education.

15 Section 5. Sections 1080 and 2104 of the act are amended to
16 read:

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

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

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

1 local agencies).

2 Section 2104. Superintendents of Schools or Buildings and of
3 Supplies.--The board of public education in each school district
4 of the first class shall, whenever a vacancy in said office
5 shall occur, appoint a district superintendent, who shall be
6 designated and known as superintendent of schools[, for a term
7 of not more than six (6) years]. The board may also appoint a
8 superintendent of buildings and a superintendent of supplies.
9 The board shall prescribe the terms and duties and fix the
10 salaries of each of such employes. They shall be responsible to
11 the board for the conduct of their respective departments, shall
12 make annual reports to the board, and shall from time to time
13 submit such plans and suggestions for the improvement of the
14 schools and the school system as they shall deem expedient or as
15 the board of public education may require.

16 The superintendent of buildings shall be an engineer or
17 architect of good standing in his profession. The superintendent
18 of buildings and the superintendent of supplies shall each give
19 such security for the faithful performance of the duties of
20 their respective offices as the board of public education shall
21 prescribe.

22 Section 6. The amendment or addition of sections 1003(B),
23 1073, 1073.1, 1076, 1077, 1078 and 1080 of the act shall apply
24 to contracts of district superintendents or assistant district
25 superintendents entered into or renewed on or after the
26 effective date of this section.

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

