

Veto No. 2002-1

HB 412

November 6, 2002

To the Honorable, the House of Representatives of the
Commonwealth of Pennsylvania:

I am returning herewith, without my approval, House Bill 412, Printer's No. 4206, entitled "An act amending the act of March 10, 1949 (P.L.30, No.14), entitled 'An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto,' further providing for employment criminal background checks, for health recommendations, for high school certificates and for mandated waivers; and making a repeal."

House Bill 412 as originally introduced sought to require the Pennsylvania Department of Insurance to provide school districts with information on the Children's Health Insurance Program (CHIP) and notification forms for parents of students about CHIP and its eligibility requirements. During the course of the legislative process, the Senate amended the bill to: require a prospective employee of a school district who has not been a resident of the state for at least two years to submit a federal criminal history background check; give school districts the sole authority to determine what shall be affixed or denoted on diplomas and transcripts; eliminate sections 751 and 751.1 of the Public School Code from the Mandate Waiver Program; and repeal Article XII-A of the Public School Code, known as the Professional Teacher Assessment Act, which includes the Professional Development Assistance Program.

The CHIP provisions and the federal background check provisions warrant enactment. However, the remaining provisions of the bill make it such that I have no choice other than to withhold my approval of House Bill 412.

First, this legislation would effectively prohibit Commonwealth officials and agencies from directing the placement of any information on a student's high school transcript or diploma. The most immediate effect of this provision would be to invalidate a regulation recently promulgated by the State Board of Education requiring placement on transcripts of the scores achieved by students on the Commonwealth's Pennsylvania System of School Assessment (PSSA) test. Because of the damage that this provision would have on the effectiveness of the PSSA as a critical tool for student assessment and public school accountability, I cannot approve of this amendment to the Public School Code.

In January 1999, the State Board of Education (State Board) promulgated regulations regarding Academic Standards and Assessments. These regulations, codified as 22 Pa. Code Chapter 4, created a new framework for curriculum and instruction in Pennsylvania's schools by establishing rigorous, world-class academic standards and aligned student assessments. The State

Board established the PSSA test as the key tool for student assessment. Under Chapter 4 as originally adopted, students who attained a score of proficient or advanced on the PSSA were to receive a Pennsylvania Seal of Proficiency or Distinction affixed to their high school diploma. The regulations also provided that a notation of the award would be made on the student's school transcript.

As the time for implementation of the "seals" provision approached, the State Board received comments from more than 70 local school boards raising concerns that this provision infringed upon the local authority of school boards to award high school diplomas. In response, the State Board worked with representatives of higher education and business, local school boards, school superintendents, teachers, students and parents to develop recommendations for addressing those concerns.

As a result of this collaboration, and consistent with the express direction of the General Assembly made in section 32 of Act 2002-88 enacted just four months ago, the State Board amended the Chapter 4 regulations to: (1) remove the requirements for placing seals of proficiency and distinction on high school diplomas and noting this on student transcripts; (2) add requirements for school districts to issue certificates of proficiency or distinction, to be supplied by the Commonwealth, to students who score proficient or above on State-administered assessments; and (3) require the placement of PSSA scores on student transcripts starting in the 2003-04 school year. See 32 Pa. Bull. 5266 (October 26, 2002). It is this last requirement of the newly amended regulations that House Bill 412 would invalidate.

As the Commonwealth moves toward a higher level of accountability in education, not only for our school districts, schools and teachers, but also for our students, this measure is just one crucial tool to help accomplish that goal. The possibility of such an acknowledgment of academic achievement will encourage our students to put forth their best on the PSSA. Now, student achievement demonstrating proficiency or excellence in meeting the State academic standards will be recognized. These regulations represent an important change intended to balance respect for the authority of local school boards with providing a credible incentive to students to put forth their best effort when taking the PSSA in a consistent uniform manner across the Commonwealth. Increasingly, school districts have already recognized the importance of and benefits from noting student test scores on transcripts, including the Neshaminy, Council Rock and Pennsbury school districts, which have utilized this measure for years.

House Bill 412 ignores the efforts of those who have worked hard to achieve this balance and threatens it by removing the ability of the Commonwealth to have any role with respect to student diplomas and transcripts. While diminishing the value of the PSSA as a comprehensive and valid assessment tool, the legislation provides no alternative for any Statewide uniformity or consistency in student assessment and public school accountability. Consequently, I cannot approve of this change in the law.

Second, House Bill 412 substantially diminishes the important efficiencies and economies that have been achieved under the Mandate Waiver Program by removing from the reach of the program sections 751 and 751.1 of the Public School Code. A popular education reform initiative, the Mandate Waiver Program became law in 2000 as part of the Education Empowerment Act (Act 16). Under the program - prescribed by section 1714-B of the Public School Code - boards of school directors and boards of control can seek from the Secretary of Education waivers from compliance with certain provisions of the Public School Code, the regulations of the State Board of Education and standards of the Secretary of Education. The provisions apply to Pennsylvania school districts, intermediate units and area vocational-technical schools (AVTS). Relief may be granted if the waiver will allow the school to improve its instructional program or operate in a more effective, efficient or economical manner.

Section 751 of the Public School Code prescribes detailed bidding requirements for most school construction projects and significant maintenance and repair work to be performed on public school facilities. Under the Mandate Waiver Program, the Secretary of Education is empowered to grant waivers from the detailed requirements of section 751 if doing so would allow the school entity requesting the waiver to accomplish the project in a more effective, efficient or economical manner. Of the 282 waivers received by the Department of Education since the program's inception, nearly 35% have been for waivers of section 751, making this section the most popular waiver request for local education agencies (LEAs). Section 751 waivers allow locally elected school officials to make the decisions on how construction costs are contained within a school district's budgets based on local issues, concerns and priorities rather than being bound by outdated and cumbersome bidding requirements.

Section 751 waivers offer relief by permitting the Secretary to waive the requirement that LEAs enter into multi-prime contracts for construction of additions or renovations to facilities. Other requested relief authorizes qualified maintenance staff on school payroll to complete projects in excess of \$5,000 or AVTS students enrolled in construction trades to compete real life construction projects at their school. Waivers to make emergency repairs to school facilities are also granted.

As of October 22, 2002, Pennsylvania school districts, and ultimately their taxpayers, are projected to have saved an estimated \$28 million due to section 751 waivers. These waivers allow locally elected school officials to make the decisions on how budgets are spent based on local issues, concerns and priorities. These waivers also offer relief from outdated, inflexible and cumbersome bidding requirements in the Public School Code and, as has been shown by data supplied from the applicants, costs that benefit few at taxpayers' expense.

The widespread use of section 751 waivers has saved local taxpayer dollars and helped school districts to control their costs. Elimination of these provisions, as proposed by House Bill 412, would only serve to increase the

burdens of State mandates on our school districts. Moreover, enactment of this legislation while the General Assembly is engaged in a Special Session seeking to find solutions to the dependence of school districts on local property taxes sends the wrong message to the taxpayers of this Commonwealth. To enact legislation that restrict school districts from utilizing cost-saving measures contradicts the very purpose of this Special Session.

Finally, House Bill 412 repeals Article XII-A of the Public School Code, known as the Professional Teacher Assessment Act. Enacted just 18 months ago as part of Act 2001-4, the Professional Teacher Assessment Act establishes the Professional Development Assistance Program (PDAP). Aligned to Pennsylvania academic standards, the PDAP measures the content knowledge of teachers in math and reading at the elementary-, middle- and secondary-school levels and focuses on improving the effectiveness of the over \$100 million spent annually on teacher professional development by the Commonwealth and our local school districts.

Administered anonymously with only aggregate scores being made available to the school districts and preparing institutions for assistance in designing professional education activities, the test is structured by domains to match the PSSA tests and Chapter 4 standards at the 5th, 8th and 11th grades.

PDAP information can dramatically help school districts in planning effective professional development in these teachers' classrooms. The PDAP results give colleges and universities a means to assess their own education programming strengths and weaknesses, helping to identify gaps or best practices in education, training and curriculum, and provide the Department of Education a useful tool in their five-year evaluation of the teacher preparation programs. This can only lead to better-prepared, better-trained and better-educated teachers.

Additionally, school districts can utilize this information in their hiring decisions. For example, even with only one full year of testing completed, the information from this program indicates that Pennsylvania's school districts should focus on teachers prepared in the Commonwealth's colleges and universities, rather than West Virginia colleges, since Pennsylvania graduates score higher on PDAP assessments than their West Virginia counterparts. PDAP also addresses what the Commonwealth's teachers need to keep up to date with K-12 content requirements in order to meet State student standards and provides school districts and State agencies with a correctly focused direction for making professional development expenditures to aid student performance on the PSSA assessments.

Pennsylvania's 118,000 plus professional classroom teachers represent some of the best-prepared and most effective teachers in the nation. The use of tests as a professional screening tool is just one of the many reasons for the high quality of our teachers. The use of the Professional Development Assistance test enables teachers to maintain their professional edge by helping them, and the educational establishment itself, focus on areas of strength and areas for improvement. School districts such as Central York and Central Dauphin are

currently using the results of the assessment to plan their professional development program.

Repeal of the Professional Teacher Assessment Act would hamper these efforts. Repeal would also remove a potential source of support for the federal requirement of the No Child Left Behind Act of 2001, which requires each classroom to be under the direction of a highly qualified teacher by 2005. Moreover, PDAP has shown promising results in a relatively short period of time. Eliminating the program at this stage is shortsighted and does a disservice not only to the teachers themselves, but also to the Commonwealth's children.

For these reasons, the provisions of House Bill 412 prohibiting the Commonwealth and Department from having any role in the content of a student's high school diploma or transcript, the elimination of the cost-saving impact of the section 751 waivers and the abrupt end to the Professional Development Assistance Program cause me to withhold my signature from House Bill 412, Printer's Number 4206.

MARK S. SCHWEIKER