

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 213 Session of 2015

INTRODUCED BY CRUZ, ROEBUCK, BROWNLEE, V. BROWN, O'BRIEN,  
BISHOP, COHEN AND McCARTER, FEBRUARY 9, 2015

REFERRED TO COMMITTEE ON EDUCATION, FEBRUARY 9, 2015

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 school directors, further  
6 providing for number and appointment in districts of first  
7 class and first class A; and, in school finances, providing  
8 for election of school directors in school districts of the  
9 first class.

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

12 Section 1. Section 302 of the act of March 10, 1949 (P.L.30,  
13 No.14), known as the Public School Code of 1949, amended June 2,  
14 1965 (P.L.86, No.59), is amended to read:

15 Section 302. Number and [Appointment in] Election of School  
16 Directors in Districts of First Class and First Class A;

17 Reorganized District of First Class A Containing Former  
18 Districts of Second, Third or Fourth Class: Terms of Office.--

19 (a) In each school district of the first class or of the first  
20 class A, the board shall be known as the "Board of Public

21 Education," and shall consist of [fifteen (15) school directors,

1 whose term of office shall be six (6) years. The terms of five  
2 of the members shall expire on the second Monday of November of  
3 each odd numbered year, as now provided by law. The judges of  
4 the courts of common pleas of the county in which such school  
5 district is situated shall, in October of every odd numbered  
6 year, appoint five (5) members for terms of six (6) years. Their  
7 term of office shall begin on the second Monday of November next  
8 following their appointment.] nine (9) school directors, who  
9 shall be elected by the qualified voters of the school district  
10 by specified districts, as provided for in this section. Each  
11 candidate shall be nominated only for the specified district in  
12 which the candidate resides and each elected member shall  
13 represent only a specified district in which the elected member  
14 resides.

15 (b) When a school district or districts of the second, third  
16 or fourth class is merged into and becomes part of a district of  
17 the first class A as a reorganized district under the provisions  
18 of Article II, subdivision (i) of this act, the terms of office  
19 of all directors of such district or districts of the second,  
20 third or fourth class shall terminate on the date of  
21 establishment of such reorganized district of the first class A.

22 As soon as a vacancy occurs in the office of Director of the  
23 Board of Public Education, a resident of the area comprising the  
24 district of the second, third or fourth class merged into and  
25 becoming a part of the school district of the first class A  
26 shall be [appointed] elected to the Board of Public Education of  
27 the reorganized district [and following the expiration of the  
28 term of the director so appointed, the appointment of directors  
29 shall be without regard to this limitation].

30 (c) All elected members shall serve for a term of four (4)

1 years, except the members elected at the initial election in  
2 even-numbered school director districts, who shall serve for two  
3 (2) years. In the event the first election occurs in an even-  
4 numbered year, the terms of the initial members shall be  
5 increased by one (1) year, so that future elections can be held  
6 in odd-numbered years. In the case of death or resignation of  
7 elected members, the president of the school board, elected  
8 pursuant to section 403, shall appoint a member to fill the  
9 vacancy from the same school director district in which the  
10 vacancy occurred until the first Monday in December following  
11 the next municipal primary occurring one hundred twenty (120)  
12 days after the vacancy occurred.

13 (d) (1) In each school district of the first class, the  
14 court of common pleas of the county in which the district is  
15 located shall select nine (9) districts which best provide for  
16 proportional representation of all segments of the population at  
17 the time of the apportionment. The school director districts  
18 shall be compact, contiguous and as nearly equal in population  
19 as practicable.

20 (2) The president judge or an associate judge of the court  
21 of common pleas of the county in which the district is located  
22 shall preside over apportionment meetings. A majority of the  
23 court of common pleas shall act.

24 (3) No later than forty-five (45) days after convening, the  
25 court of common pleas shall file an apportionment plan with the  
26 county board of elections to be submitted to the voters of the  
27 district at the next primary election occurring not less than  
28 ninety-one (91) days after the plan is filed with the county  
29 board and at which primary election the candidates for members  
30 of the school board shall be nominated.

1     (4) No later than September 1 in the second year following  
2 the year in which Federal decennial census data is officially  
3 gathered, the court of common pleas of the county in which the  
4 school district is situated shall reconvene. The duties of the  
5 court of common pleas shall be, from the official data of the  
6 United States Bureau of the Census, to define the lines that  
7 divide the existing school director districts, to make any new  
8 school director districts as nearly equal in population as  
9 practicable, and as compact and contiguous as possible and to  
10 best provide for racial balance on the board of school directors  
11 of the school district. The number of school directors or school  
12 director districts shall not be increased or decreased. In  
13 addition, the court of common pleas shall make every effort to  
14 maintain neighborhood boundary lines of communities of like  
15 interest whenever practicable. The court of common pleas shall  
16 file its plan no later than ninety (90) days after the specified  
17 population data for the school district of the first class, as  
18 determined by the Federal decennial census, is available.

19     (5) Any apportionment or reapportionment plan prepared by  
20 the court of common pleas of the county in which the district is  
21 located shall be published by the county board of elections once  
22 in at least one (1) newspaper of general circulation in the most  
23 populous municipality of the school district, which publication  
24 shall contain a map of the school district showing the complete  
25 apportionment or reapportionment of the school director  
26 districts. The publication shall also state the population of  
27 the school director districts having the smallest and largest  
28 population and the percentage variation of the districts from  
29 the average population for the districts.

30     (e) (1) Except as provided in paragraph (2), school

1 directors shall be nominated and elected under the act of June  
2 3, 1937 (P.L.1333, No.320), known as the "Pennsylvania Election  
3 Code."

4 (2) Notwithstanding section 951 of the "Pennsylvania  
5 Election Code," nomination papers for the office of school  
6 director shall be filed in the same manner as nominations of  
7 candidates of political bodies or independent candidates, as  
8 provided by the "Pennsylvania Election Code," without regard to  
9 political party membership. Nomination papers for the office of  
10 school director must include the signatures of at least two  
11 hundred fifty (250) qualified electors from the district in  
12 which the candidate resides, without regard to political party  
13 affiliation.

14 (f) (1) After the election of school directors from  
15 specified districts, the Board of Public Education shall be  
16 governed by the provisions of this act and other provisions of  
17 general law relating to school districts of the first class  
18 which are not inconsistent with the provisions of this section.

19 (2) The provisions of this section shall supersede all other  
20 parts of this act and all other acts affecting the organization  
21 of school districts of the first class to the extent that they  
22 are inconsistent or in conflict with this section.

23 (3) All existing acts or parts of acts and resolutions  
24 affecting the organization of school districts of the first  
25 class not inconsistent or in conflict with the provisions of  
26 this section shall remain in full force until modified or  
27 repealed as provided by law.

28 (g) No superintendent, assistant superintendent, supervising  
29 principal, teacher or other employe shall serve either  
30 temporarily or permanently as a member of the school board.

1 (h) Within thirty (30) days of the election of all school  
2 directors of the Board of Public Education, the Department of  
3 Education shall publish notice of the election of the Board of  
4 Public Education in the Pennsylvania Bulletin.

5 Section 2. Section 696 of the act, amended October 30, 2001  
6 (P.L.828, No.83), June 29, 2002 (P.L.524, No.88) and July 12,  
7 2012 (P.L.1142, No.141), is amended to read:

8 Section 696. Distress in School Districts of the First  
9 Class.--(a) Within thirty (30) days of a declaration by the  
10 Secretary of Education that a school district of the first class  
11 is distressed under section 691(c), a School Reform Commission  
12 shall be established consisting of four members initially  
13 appointed by the Governor and one member initially appointed by  
14 the mayor of the city coterminous with the school district. The  
15 School Reform Commission shall be an instrumentality of a school  
16 district of the first class, exercising the powers of the board  
17 of school directors. The Governor shall appoint a chairman of  
18 the School Reform Commission. At least three of the commission  
19 members, including the member appointed by the mayor, must be  
20 residents of the school district.

21 (b) Membership of the School Reform Commission shall be as  
22 follows:

23 (1) Members appointed pursuant to this section shall serve  
24 terms as follows:

25 (i) Two of the members appointed by the Governor shall serve  
26 initial terms of seven (7) years.

27 (ii) One of the members appointed by the Governor shall  
28 serve an initial term of five (5) years.

29 (iii) One of the members appointed by the Governor shall  
30 serve an initial term of three (3) years. Upon the expiration of

1 the initial term of this member, the mayor shall appoint an  
2 individual to fill this position.

3 (iv) The member appointed by the mayor shall serve an  
4 initial term of three (3) years.

5 (v) After the expiration of each initial term:

6 (A) Members appointed by the Governor under subclauses (i)  
7 and (ii) shall be appointed for a term of five (5) years.

8 (B) Members appointed by the mayor under subclauses (iii)  
9 and (iv) shall be appointed for a term of four (4) years.

10 (2) Except as authorized in this subsection, no commission  
11 member may be removed from office during a term. The Governor  
12 may, upon proof by clear and convincing evidence of malfeasance  
13 or misfeasance in office, remove a commission member prior to  
14 the expiration of the term. Before a commission member is  
15 removed, that member must be provided with a written statement  
16 of the reasons for removal and an opportunity for a hearing in  
17 accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to practice  
18 and procedure of Commonwealth agencies) and Ch. 7 Subch. A  
19 (relating to judicial review of Commonwealth agency action).

20 (3) Upon the expiration of term or the occurrence of a  
21 vacancy in the office of a commission member appointed by the  
22 Governor, the Governor shall appoint, with the consent of a  
23 majority of the members elected to the Senate, the successor  
24 member. Upon the expiration of term or the occurrence of a  
25 vacancy in the office of a commission member appointed by the  
26 mayor, the mayor shall appoint the successor member. An  
27 appointment to fill a vacancy shall be for the balance of the  
28 unexpired term.

29 (4) A commission member shall hold office until a successor  
30 has been appointed and qualified.

1 (5) A commission member may serve successive terms.

2 (6) No commission member may, while in the service of the  
3 School Reform Commission, seek or hold a position as any other  
4 public official within this Commonwealth or as an officer of a  
5 political party.

6 (7) Commission members shall be reimbursed for reasonable  
7 and necessary expenses incurred in the performance of their  
8 official duties from funds of the school district.

9 (b.1) Actions of the School Reform Commission shall be by a  
10 majority vote. A majority of the commission members appointed  
11 shall constitute a quorum.

12 (b.2) Upon the issuance of a declaration by the Secretary of  
13 Education that a school district of the first class is  
14 distressed under section 691(c), the Governor shall appoint an  
15 interim chairman of the School Reform Commission, who shall have  
16 the full power and authority of the School Reform Commission.  
17 The interim chairman shall serve for a term not to exceed thirty  
18 (30) days. The interim chairman may be appointed to the School  
19 Reform Commission pursuant to this section.]

20 (c) The [School Reform Commission] Board of Public Education  
21 may suspend or dismiss the superintendent or any person acting  
22 in an equivalent capacity.

23 (e) The following shall apply:

24 (1) The [School Reform Commission] Board of Public Education  
25 shall be responsible for the operation, management and  
26 educational program of the school district of the first class.  
27 The powers and duties of the board of school directors of a  
28 school district of the first class shall be suspended. All  
29 powers and duties granted heretofore to the board of school  
30 directors of a school district of the first class under this act

1 or any other law, including its authority to levy taxes and  
2 incur debt, shall be vested in the [School Reform Commission  
3 until the Secretary of Education issues a declaration under  
4 subsection (n)] Board of Public Education.

5 (2) The [School Reform Commission] Board of Public Education  
6 may enter into agreements necessary to provide for the  
7 operation, management and educational programs of the school  
8 district of the first class. The agreements shall include  
9 appropriate fiscal and academic accountability measures.

10 Academic accountability measures shall include:

11 (i) Strategic goals and objectives for improving academic  
12 performance.

13 (ii) Methods setting forth how the strategic goals and  
14 objectives are to be achieved and the specific methodology for  
15 evaluating results.

16 (h) The [School Reform Commission] Board of Public Education  
17 shall be responsible for financial matters related to the  
18 distressed school district of the first class and:

19 (1) All taxes authorized to be levied by a school district  
20 of the first class or for a school district of the first class  
21 by a city or county of the first class on the date of the  
22 declaration of distress shall continue to be authorized and  
23 levied in accordance with this act and shall be transmitted to  
24 the school district. For the first fiscal year or part thereof  
25 and every fiscal year thereafter in which the school district is  
26 declared to be distressed, the amount appropriated or paid by  
27 the city or county to the school district and the tax authorized  
28 by the city or county to be levied for the school district or  
29 dedicated to the school district shall be an amount or tax not  
30 less than the highest amount paid by the city or county to the

1 school district or authorized by the city or county to be levied  
2 for the school district or dedicated to the school district  
3 during any of the three full preceding fiscal years. In  
4 addition, the city of the first class shall provide to the  
5 school district of the first class all other available local  
6 non-tax revenue, including grants, subsidies or payments made  
7 during the prior year.

8 (2) In addition to the moneys collected under paragraph (1),  
9 the city of the first class shall remit to the school district  
10 of the first class for each year that the school district is  
11 declared distressed that portion of all other local tax revenue  
12 levied for a full fiscal year by a city or county of the first  
13 class coterminous with a school district of the first class that  
14 was allocated to the school district prior to the school  
15 district being declared distressed in accordance with section  
16 691(c).

17 (3) All taxes collected on behalf of a school district of  
18 the first class by any person or entity, including a city or  
19 county of the first class, shall be promptly paid following  
20 collection to the [School Reform Commission] Board of Public  
21 Education for the benefit of the school district.

22 (4) In the event the city or county of the first class does  
23 not meet the financial obligations prescribed in this  
24 subsection, the Commonwealth may apply to that obligation any  
25 amounts otherwise due from the Commonwealth to the city or  
26 county of the first class, including, but not limited to,  
27 grants, awards and moneys collected by the Commonwealth on  
28 behalf of the city or county of the first class. Funds withheld  
29 shall be maintained in a separate account by the State Treasurer  
30 to be disbursed as determined by the Secretary of Education in

1 consultation with the State Treasurer.

2 (5) The [School Reform Commission] Board of Public Education  
3 shall adopt a budget. Beginning with the first budget adopted by  
4 the Board of Public Education, the budget shall contain a five  
5 (5) year budget plan. The five (5) year budget plan shall be  
6 adopted annually and shall be submitted to the Pennsylvania  
7 Intergovernmental Cooperation Authority of the city of the first  
8 class for review and approval by June 30 of each year.

9 (i) In addition to all powers granted to [the superintendent  
10 by law and] a special board of control under section 693 and  
11 notwithstanding any other law to the contrary, the [School  
12 Reform Commission] Board of Public Education shall have the  
13 following powers:

14 (1) (i) To appoint such persons and other entities as  
15 needed to conduct fiscal and performance audits and other  
16 necessary analyses.

17 (ii) Notwithstanding the provisions of subclause (i), the  
18 Department of the Auditor General or the city controller of a  
19 city of the first class may conduct fiscal audits and  
20 performance audits, as necessary and as determined by the  
21 Department of the Auditor General and the city controller. The  
22 Department of the Auditor General and the city controller shall  
23 coordinate such audits so as not to disrupt the operations of  
24 the school district of the first class or to duplicate efforts.

25 (2) To enter into agreements with persons or for-profit or  
26 nonprofit organizations to operate one or more schools. A school  
27 operated under this clause shall be funded in accordance with  
28 the terms of the agreement. This clause shall be subject to the  
29 following provisions:

30 (i) All applications to operate a charter school in a school

1 year after a declaration of distress is issued and all charter  
2 schools established after a declaration of distress is issued  
3 shall not be subject to sections 1717-A(b), (c), (d), (e), (f),  
4 (g), (h) and (i), 1722-A(c) and 1724-A.

5 (ii) The [School Reform Commission] Board of Public  
6 Education may suspend or revoke a charter pursuant to section  
7 1729-A.

8 (3) To suspend the requirements of this act and regulations  
9 of the State Board of Education except that the school district  
10 shall remain subject to those provisions of this act set forth  
11 in sections 1073, 1073.1, 1076, 1077, 1078, 1080, 1732-A(a), (b)  
12 and (c), 1714-B and 2104 and regulations under those sections.

13 (4) To employ professional and senior management employes  
14 who do not hold State certification if the [School Reform  
15 Commission] Board of Public Education has approved the  
16 qualifications of the person at a salary established by the  
17 [commission] board.

18 (5) To enter into agreements with persons or for-profit or  
19 nonprofit organizations providing educational or other services  
20 to or for the school district. Services provided under this  
21 clause shall be funded in accordance with the terms of the  
22 agreement.

23 (6) Notwithstanding any other provisions of this act, to  
24 close or reconstitute a school, including the reassignment,  
25 suspension or dismissal of professional employes.

26 (7) To suspend professional employes without regard to the  
27 provisions of section 1125.1.

28 (8) To appoint managers, administrators or for-profit or  
29 nonprofit organizations to oversee the operations of a school or  
30 group of schools within the school district.

1 (9) To reallocate resources, amend school procedures,  
2 develop achievement plans and implement testing or other  
3 evaluation procedures for educational purposes.

4 (10) To supervise and direct principals, teachers and  
5 administrators.

6 (11) To negotiate any memoranda of understanding under the  
7 collective bargaining agreement in existence on the effective  
8 date of this section.

9 (12) To negotiate a new collective bargaining agreement.

10 (13) To delegate to a person, including an employe of the  
11 school district or a for-profit or nonprofit organization,  
12 powers it deems necessary to carry out the purposes of this  
13 article, subject to the supervision and direction of the [School  
14 Reform Commission] Board of Public Education.

15 (14) To employ, contract with or assign persons or for-  
16 profit or nonprofit organizations to review the financial and  
17 educational programs of school buildings and make  
18 recommendations to the [School Reform Commission] Board of  
19 Public Education regarding improvements to the financial or  
20 educational programs of school buildings.

21 [(j) The board of school directors of the distressed school  
22 district of the first class shall continue in office for the  
23 remainder of their terms during the time the district is  
24 operated by the commission unless removed for neglect of duty  
25 under section 318 by the court of common pleas or unless the  
26 director is elected to another position not compatible with the  
27 position of school director or is appointed to a position for  
28 which there is a requirement that the appointee shall hold no  
29 elective office. The board of school directors shall perform any  
30 duties delegated to it by the commission. The establishment of

1 the School Reform Commission shall not interfere with the  
2 regular selection of school directors for the school district of  
3 the first class.]

4 (k) Collective bargaining between employes and the school  
5 district of the first class shall be conducted in accordance  
6 with this subsection. For purposes of collective bargaining, as  
7 used in section 693 and this section: "professional employe"  
8 shall have the meaning given in section 1101(1), and "teacher"  
9 shall have the meaning given in section 1202-A.

10 (2) No distressed school district of the first class shall  
11 be required to engage in collective bargaining negotiations or  
12 enter into memoranda of understanding or other agreements  
13 regarding any of the following issues:

14 (i) Contracts with third parties for the provision of goods  
15 or services, including educational services or the potential  
16 impact of such contracts on employes.

17 (ii) Decisions related to reductions in force.

18 (iii) Staffing patterns and assignments, class schedules,  
19 academic calendar, places of instruction, pupil assessment and  
20 teacher preparation time.

21 (iv) The use, continuation or expansion of programs  
22 designated by the [School Reform Commission] Board of Public  
23 Education as pilot or experimental programs.

24 (v) The approval or designation of a school as a charter or  
25 magnet school.

26 (vi) The use of technology to provide instructional or other  
27 services.

28 (3) A collective bargaining agreement for professional  
29 employes entered into after the expiration of the agreement in  
30 effect on the date of the declaration of distress shall provide

1 for the following:

2 (i) A school day for professional employes that is equal to  
3 or exceeds the State average as determined by the department. An  
4 extension of the school day resulting from this requirement  
5 shall be used exclusively for instructional time for students.

6 (ii) The number of instructional days shall be equal to or  
7 exceed the State average number of instructional days.

8 (iii) The [School Reform Commission] Board of Public  
9 Education shall not increase compensation for employes solely to  
10 fulfill the requirements under subparagraphs (i) and (ii).

11 (4) A provision in any contract in effect on the date of the  
12 declaration of distress under this subsection that is in  
13 conflict with this subsection shall be discontinued in any new  
14 or renewed contract.

15 (5) Except as specifically provided in section 693, nothing  
16 in this subsection shall eliminate, supersede or preempt any  
17 provision of an existing collective bargaining agreement until  
18 the expiration of the agreement unless otherwise authorized by  
19 law.

20 (6) If upon the termination of a collective bargaining  
21 agreement in effect on the date of the declaration of distress  
22 under this section a new collective bargaining agreement has not  
23 been ratified, the [School Reform Commission] Board of Public  
24 Education shall establish a personnel salary schedule to be used  
25 until a new agreement is ratified.

26 (1) During the time the school district of the first class  
27 is under the direction of the [School Reform Commission] Board  
28 of Public Education, all school employes shall be prohibited  
29 from engaging in any strike as defined in Article XI-A and  
30 section 301 of the act of July 23, 1970 (P.L.563, No.195), known

1 as the "Public Employe Relations Act." The Secretary of  
2 Education may suspend the certificate of an employe who violates  
3 this subsection.

4 [(n) The Secretary of Education, only upon the  
5 recommendation of a majority of the School Reform Commission,  
6 may issue a declaration to dissolve the School Reform  
7 Commission. The dissolution declaration shall be issued at least  
8 one hundred eighty (180) days prior to the end of the current  
9 school year and shall be effective at the end of that school  
10 year. Except as otherwise provided in this section, after  
11 dissolution, the board of school directors shall have the powers  
12 and duties of the School Reform Commission.]

13 (n.1) When a declaration has been issued by the Secretary of  
14 Education under section 691(c) [and a School Reform Commission  
15 has been appointed under this section], section 1705-B shall be  
16 suspended for school districts of the first class.

17 (n.2) Beginning [in 2003] after the publication notice  
18 provided for in section 302(h), by August 31 of each year, the  
19 [School Reform Commission] Board of Public Education shall  
20 provide a report for the preceding school year regarding  
21 progress made toward improvements in fiscal and academic  
22 performance in a school district of the first class. The report  
23 shall be filed with the Governor's Office and with the chairman  
24 and minority chairman of the Education Committee of the Senate  
25 and the chairman and minority chairman of the Education  
26 Committee of the House of Representatives.

27 (o) The provisions of this section are severable. If any  
28 provision of this section or its application to any person or  
29 circumstance is held invalid, the invalidity shall not affect  
30 the remaining provisions or applications.

1     (p) For purposes of this section, "Board of Public  
2     Education" shall mean the elected board of school directors of  
3     the first class as provided in section 302.

4     Section 3. This act shall take effect as follows:

5             (1) The amendment of section 302 of the act shall take  
6     effect in 60 days.

7             (2) The remainder of this act shall take effect  
8     following the publication of notice in the Pennsylvania  
9     Bulletin of the election of the Board of Public Education.