

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 2218 Session of  
2015

---

INTRODUCED BY THOMAS, JUNE 24, 2016

---

REFERRED TO COMMITTEE ON EDUCATION, JUNE 24, 2016

---

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 finances, repealing  
6 provisions relating to approval of unfunded debt in certain  
7 distressed school districts, to distress in school districts  
8 of the first class and to educational assessment center; and  
9 making a related appeal.

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

12 Section 1. Sections 636.1, 696 and 697 of the act of March  
13 10, 1949 (P.L.30, No.14), known as the Public School Code of  
14 1949, are repealed:

15 [Section 636.1. Approval of Unfunded Debt in Certain  
16 Distressed School Districts.--(a) Notwithstanding any other  
17 provision of law, the governing body of a distressed school  
18 district may approve the issuance of bonds or notes to fund  
19 unfunded debt of the school district if the governing body finds  
20 all of the following:

21 (1) The unfunded debt is a lawful obligation or is a  
22 lawfully budgeted obligation of the school district.

1 (2) Paying the unfunded debt by reducing school district  
2 services will endanger student health or safety and public  
3 education.

4 (3) It is not feasible or in the public interest to levy  
5 sufficient additional taxes to fund the unfunded debt in the  
6 current fiscal year or ensuing fiscal years.

7 (b) In addition to the requirements of 53 Pa.C.S. § 8111  
8 (relating to submission to department), a governing body  
9 authorizing bonds or notes under subsection (a) shall include  
10 certified copies of the findings of the governing body made  
11 pursuant to subsection (a) with the copy of the proceedings  
12 certified to the Department of Community and Economic  
13 Development under 53 Pa.C.S. § 8201 (relating to certification  
14 to department of bond or note transcript or lease, guaranty,  
15 subsidy contract or other agreement).

16 (c) Bonds or notes authorized in accordance with subsection  
17 (a) shall be stated to mature or be subject to mandatory  
18 redemption in the principal amounts and over the number of  
19 years, not to exceed thirty (30) years, as the governing body  
20 finds will allow for the payment of the bonds or notes without  
21 endangering student health or safety and public education or  
22 requiring the levying of excessive taxes.

23 (d) Except as provided in this section, bonds or notes  
24 authorized in accordance with subsection (a) shall be issued and  
25 sold by a distressed school district in accordance with  
26 provisions of 53 Pa.C.S. Pt. VII Subpt. B (relating to  
27 indebtedness and borrowing).

28 (e) The amount by which payments appropriated and paid by a  
29 city of the first class to a distressed school district in the  
30 fiscal year in which the declaration of distress was issued

1 exceed the payments appropriated and paid by the city to the  
2 distressed school district in the immediately preceding fiscal  
3 year shall be excluded in determining the obligations of the  
4 city to make payments to the distressed school district under  
5 section 696(h).

6 (f) Subsections (a) and (b) of 53 Pa.C.S. § 8022 (relating  
7 to limitations on incurring of other debt) shall not apply to  
8 bonds or notes authorized in accordance with subsection (a).

9 (g) This section shall provide the exclusive method for the  
10 issuance of bonds and notes to fund unfunded debt of a  
11 distressed school district.

12 (h) The Pennsylvania Supreme Court shall have exclusive  
13 jurisdiction to hear any challenge to or to render a declaratory  
14 judgment concerning this section. The Supreme Court is  
15 authorized to take any action it deems appropriate, consistent  
16 with the Supreme Court retaining jurisdiction over the matter,  
17 to find facts or to expedite a final judgment in connection with  
18 a challenge or request for declaratory relief.

19 (i) Subsections (a) and (g) shall expire July 1, 2003.

20 (j) The following words and phrases when used in this  
21 section shall have the meanings given to them in this subsection  
22 unless the context clearly indicates otherwise:

23 "Distressed school district." A school district of the first  
24 class which has been declared to be distressed by the Secretary  
25 of Education under section 691.

26 "Governing body." A school reform commission established in  
27 accordance with section 696(a) or the commission's successor.

28 "Unfunded debt." Obligations, including tax anticipation  
29 notes, of a distressed school district incurred for current  
30 expenses; obligations of a distressed school district for

1 expenses included in a budget adopted on or before June 30,  
2 2003, which are to become due and owing; or judgments against a  
3 distressed school district entered by a court after adversary  
4 proceedings; if the taxes and other revenues remaining to be  
5 collected in the current fiscal year or to be collected in the  
6 ensuing fiscal years and the funds on hand will not be  
7 sufficient for payment of the obligations or judgments without  
8 endangering student health or safety and public education and  
9 the distressed school district either may not legally levy a  
10 sufficient tax for the balance of the fiscal year or a  
11 sufficient tax, if legally leviable, would not be in the public  
12 interest. The term excludes debt incurred under or obligations  
13 in respect of a project or part of a project as incurred in  
14 respect of the cost of a project as defined in 53 Pa.C.S. Pt.  
15 VII Subpt. B.

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

29 (b) Membership of the School Reform Commission shall be as  
30 follows:

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

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

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

7 (iii) One of the members appointed by the Governor shall  
8 serve an initial term of three (3) years. Upon the expiration of  
9 the initial term of this member, the mayor shall appoint an  
10 individual to fill this position.

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

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

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

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

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

28 (3) Upon the expiration of term or the occurrence of a  
29 vacancy in the office of a commission member appointed by the  
30 Governor, the Governor shall appoint, with the consent of a

1 majority of the members elected to the Senate, the successor  
2 member. Upon the expiration of term or the occurrence of a  
3 vacancy in the office of a commission member appointed by the  
4 mayor, the mayor shall appoint the successor member. An  
5 appointment to fill a vacancy shall be for the balance of the  
6 unexpired term.

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

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

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

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

17 (b.1) Actions of the School Reform Commission shall be by a  
18 majority vote. A majority of the commission members appointed  
19 shall constitute a quorum.

20 (b.2) Upon the issuance of a declaration by the Secretary of  
21 Education that a school district of the first class is  
22 distressed under section 691(c), the Governor shall appoint an  
23 interim chairman of the School Reform Commission, who shall have  
24 the full power and authority of the School Reform Commission.  
25 The interim chairman shall serve for a term not to exceed thirty  
26 (30) days. The interim chairman may be appointed to the School  
27 Reform Commission pursuant to this section.

28 (c) The School Reform Commission may suspend or dismiss the  
29 superintendent or any person acting in an equivalent capacity.

30 (d) (Deleted by amendment).

1 (e) The following shall apply:

2 (1) The School Reform Commission shall be responsible for  
3 the operation, management and educational program of the school  
4 district of the first class. The powers and duties of the board  
5 of school directors of a school district of the first class  
6 shall be suspended. All powers and duties granted heretofore to  
7 the board of school directors of a school district of the first  
8 class under this act or any other law, including its authority  
9 to levy taxes and incur debt, shall be vested in the School  
10 Reform Commission until the Secretary of Education issues a  
11 declaration under subsection (n).

12 (2) The School Reform Commission may enter into agreements  
13 necessary to provide for the operation, management and  
14 educational programs of the school district of the first class.  
15 The agreements shall include appropriate fiscal and academic  
16 accountability measures. Academic accountability measures shall  
17 include:

18 (i) Strategic goals and objectives for improving academic  
19 performance.

20 (ii) Methods setting forth how the strategic goals and  
21 objectives are to be achieved and the specific methodology for  
22 evaluating results.

23 (h) The School Reform Commission shall be responsible for  
24 financial matters related to the distressed school district of  
25 the first class and:

26 (1) All taxes authorized to be levied by a school district  
27 of the first class or for a school district of the first class  
28 by a city or county of the first class on the date of the  
29 declaration of distress shall continue to be authorized and  
30 levied in accordance with this act and shall be transmitted to

1 the school district. For the first fiscal year or part thereof  
2 and every fiscal year thereafter in which the school district is  
3 declared to be distressed, the amount appropriated or paid by  
4 the city or county to the school district and the tax authorized  
5 by the city or county to be levied for the school district or  
6 dedicated to the school district shall be an amount or tax not  
7 less than the highest amount paid by the city or county to the  
8 school district or authorized by the city or county to be levied  
9 for the school district or dedicated to the school district  
10 during any of the three full preceding fiscal years. In  
11 addition, the city of the first class shall provide to the  
12 school district of the first class all other available local  
13 non-tax revenue, including grants, subsidies or payments made  
14 during the prior year.

15 (2) In addition to the moneys collected under paragraph (1),  
16 the city of the first class shall remit to the school district  
17 of the first class for each year that the school district is  
18 declared distressed that portion of all other local tax revenue  
19 levied for a full fiscal year by a city or county of the first  
20 class coterminous with a school district of the first class that  
21 was allocated to the school district prior to the school  
22 district being declared distressed in accordance with section  
23 691(c).

24 (3) All taxes collected on behalf of a school district of  
25 the first class by any person or entity, including a city or  
26 county of the first class, shall be promptly paid following  
27 collection to the School Reform Commission for the benefit of  
28 the school district.

29 (4) In the event the city or county of the first class does  
30 not meet the financial obligations prescribed in this



1 subsection, the Commonwealth may apply to that obligation any  
2 amounts otherwise due from the Commonwealth to the city or  
3 county of the first class, including, but not limited to,  
4 grants, awards and moneys collected by the Commonwealth on  
5 behalf of the city or county of the first class. Funds withheld  
6 shall be maintained in a separate account by the State Treasurer  
7 to be disbursed as determined by the Secretary of Education in  
8 consultation with the State Treasurer.

9 (5) The School Reform Commission shall adopt a budget.

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

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

17 (2) To enter into agreements with persons or for-profit or  
18 nonprofit organizations to operate one or more schools. A school  
19 operated under this clause shall be funded in accordance with  
20 the terms of the agreement.

21 (i) All applications to operate a charter school in a school  
22 year after a declaration of distress is issued and all charter  
23 schools established after a declaration of distress is issued  
24 shall not be subject to sections 1717-A(b), (c), (d), (e), (f),  
25 (g), (h) and (i), 1722-A(c) and 1724-A.

26 (ii) The School Reform Commission may suspend or revoke a  
27 charter pursuant to section 1729-A.

28 (3) To suspend the requirements of this act and regulations  
29 of the State Board of Education except that the school district  
30 shall remain subject to those provisions of this act set forth

1 in sections 1073, 1073.1, 1076, 1077, 1078, 1080, 1732-A(a), (b)  
2 and (c), 1714-B and 2104 and regulations under those sections.

3 (4) To employ professional and senior management employes  
4 who do not hold State certification if the School Reform  
5 Commission has approved the qualifications of the person at a  
6 salary established by the commission.

7 (5) To enter into agreements with persons or for-profit or  
8 nonprofit organizations providing educational or other services  
9 to or for the school district. Services provided under this  
10 clause shall be funded in accordance with the terms of the  
11 agreement.

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

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

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

20 (9) To reallocate resources, amend school procedures,  
21 develop achievement plans and implement testing or other  
22 evaluation procedures for educational purposes.

23 (10) To supervise and direct principals, teachers and  
24 administrators.

25 (11) To negotiate any memoranda of understanding under the  
26 collective bargaining agreement in existence on the effective  
27 date of this section.

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

29 (13) To delegate to a person, including an employe of the  
30 school district or a for-profit or nonprofit organization,

1 powers it deems necessary to carry out the purposes of this  
2 article, subject to the supervision and direction of the School  
3 Reform Commission.

4 (14) To employ, contract with or assign persons or for-  
5 profit or nonprofit organizations to review the financial and  
6 educational programs of school buildings and make  
7 recommendations to the School Reform Commission regarding  
8 improvements to the financial or educational programs of school  
9 buildings.

10 (j) The board of school directors of the distressed school  
11 district of the first class shall continue in office for the  
12 remainder of their terms during the time the district is  
13 operated by the commission unless removed for neglect of duty  
14 under section 318 by the court of common pleas or unless the  
15 director is elected to another position not compatible with the  
16 position of school director or is appointed to a position for  
17 which there is a requirement that the appointee shall hold no  
18 elective office. The board of school directors shall perform any  
19 duties delegated to it by the commission. The establishment of  
20 the School Reform Commission shall not interfere with the  
21 regular selection of school directors for the school district of  
22 the first class.

23 (k) Collective bargaining between employes and the school  
24 district of the first class shall be conducted in accordance  
25 with this subsection. For purposes of collective bargaining, as  
26 used in section 693 and this section: "professional employe"  
27 shall have the meaning given in section 1101(1), and "teacher"  
28 shall have the meaning given in section 1202-A.

29 (2) No distressed school district of the first class shall  
30 be required to engage in collective bargaining negotiations or

1 enter into memoranda of understanding or other agreements  
2 regarding any of the following issues:

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

6 (ii) Decisions related to reductions in force.

7 (iii) Staffing patterns and assignments, class schedules,  
8 academic calendar, places of instruction, pupil assessment and  
9 teacher preparation time.

10 (iv) The use, continuation or expansion of programs  
11 designated by the School Reform Commission as pilot or  
12 experimental programs.

13 (v) The approval or designation of a school as a charter or  
14 magnet school.

15 (vi) The use of technology to provide instructional or other  
16 services.

17 (3) A collective bargaining agreement for professional  
18 employes entered into after the expiration of the agreement in  
19 effect on the date of the declaration of distress shall provide  
20 for the following:

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

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

27 (iii) The School Reform Commission shall not increase  
28 compensation for employes solely to fulfill the requirements  
29 under subparagraphs (i) and (ii).

30 (4) A provision in any contract in effect on the date of the

1 declaration of distress under this subsection that is in  
2 conflict with this subsection shall be discontinued in any new  
3 or renewed contract.

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

9 (6) If upon the termination of a collective bargaining  
10 agreement in effect on the date of the declaration of distress  
11 under this section a new collective bargaining agreement has not  
12 been ratified, the School Reform Commission shall establish a  
13 personnel salary schedule to be used until a new agreement is  
14 ratified.

15 (1) During the time the school district of the first class  
16 is under the direction of the School Reform Commission, all  
17 school employes shall be prohibited from engaging in any strike  
18 as defined in Article XI-A and section 301 of the act of July  
19 23, 1970 (P.L.563, No.195), known as the "Public Employe  
20 Relations Act." The Secretary of Education may suspend the  
21 certificate of an employe who violates this subsection.

22 (n) The Secretary of Education, only upon the recommendation  
23 of a majority of the School Reform Commission, may issue a  
24 declaration to dissolve the School Reform Commission. The  
25 dissolution declaration shall be issued at least one hundred  
26 eighty (180) days prior to the end of the current school year  
27 and shall be effective at the end of that school year. Except as  
28 otherwise provided in this section, after dissolution the board  
29 of school directors shall have the powers and duties of the  
30 School Reform Commission.

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

5 (n.2) Beginning in 2003, by August 31 of each year, the  
6 School Reform Commission shall provide a report for the  
7 preceding school year regarding progress made toward  
8 improvements in fiscal and academic performance in a school  
9 district of the first class. The report shall be filed with the  
10 Governor's Office and with the chairman and minority chairman of  
11 the Education Committee of the Senate and the chairman and  
12 minority chairman of the Education Committee of the House of  
13 Representatives.

14 (o) The provisions of this section are severable. If any  
15 provision of this section or its application to any person or  
16 circumstance is held invalid, the invalidity shall not affect  
17 the remaining provisions or applications.

18 Section 697. Educational Assessment Center.--(a) A  
19 governing body of a distressed school district shall establish  
20 an independent educational assessment and reporting center to  
21 monitor and report on the performance of the publicly funded  
22 schools in the distressed school district.

23 (b) The following words and phrases when used in this  
24 section shall have the meanings given to them in this subsection  
25 unless the context clearly indicates otherwise:

26 "Distressed school district." A school district of the first  
27 class which has been declared to be distressed by the Secretary  
28 of Education under section 691.

29 "Governing body." A school reform commission established in  
30 accordance with section 696(a) or the commission's successor.]

1 Section 2. Repeals are as follows:

2 (1) The General Assembly finds that the repeal under  
3 paragraph (2) is necessary to effectuate this act.

4 (2) The provisions of 53 Pa.C.S. § 303 are repealed.

5 Section 3. This act shall take effect in 60 days.