
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 795 Session of
2017

INTRODUCED BY BLAKE, HUGHES AND COSTA, JUNE 22, 2017

REFERRED TO EDUCATION, JUNE 22, 2017

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 duties and powers of boards of
6 school directors, providing for third-party services.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. The act of March 10, 1949 (P.L.30, No.14), known
10 as the Public School Code of 1949, is amended by adding a
11 section to read:

12 Section 528. Third-Party Services.--(a) Notwithstanding any
13 other law of this Commonwealth, a school employer shall not
14 enter into a contract with a third-party entity for non-
15 instructional services if the contract will result in the
16 termination, layoff, furlough or demotion of any employe of the
17 school employer unless the following conditions are met:

18 (1) The school employer shall solicit proposals by issuing a
19 request for proposals. The request for proposals shall be posted
20 on the school employer's publicly accessible Internet website

1 and made publicly available for review at the school employer's
2 administrative office.

3 (2) The school employer's request for proposals shall
4 require each third-party entity to provide:

5 (i) a minimum three-year cost projection to the school
6 employer, using generally accepted accounting principles;

7 (ii) the total number of employees to be employed by the
8 third-party entity to provide service to the school employer and
9 the job classification, job description, wages and benefits
10 applicable to each employment position;

11 (iii) evidence of liability insurance in scope and amount
12 equivalent to the liability insurance provided by the school
13 employer; and

14 (iv) information concerning any violation of Federal or
15 State laws or regulations by the third-party entity, information
16 concerning the safety records of the third-party entity,
17 composite information about the criminal and disciplinary
18 records of current employees of the third-party entity who may
19 perform the non-instructional services currently performed by
20 employees of the school employer and information concerning any
21 traffic violations or chargeable accidents that occurred during
22 the course of employment by individual employees of the third-
23 party entity.

24 (3) The school employer shall compare a cost projection
25 under paragraph (2)(i) with a cost projection for the school
26 employer providing the non-instructional services in the manner
27 the services are currently provided during the same period. The
28 cost comparison shall be made public on the school employer's
29 publicly accessible Internet website and be made available for
30 review at the school employer's office no later than thirty (30)

1 days before the hearing under paragraph (4).

2 (4) The school employer shall conduct a minimum of one
3 public hearing prior to a regularly scheduled board meeting to
4 present to the public the selected proposal of a third-party
5 entity to perform the non-instructional services and to receive
6 public comment. The school employer must provide notice to the
7 public of the date, time and location of the first public
8 hearing on or before the initial date that bids to provide the
9 non-instructional services are solicited or a minimum of thirty
10 (30) days prior to the public board meeting, whichever provides
11 a greater period of notice.

12 (5) The school employer may not cease making contributions
13 to the share of existing unfunded pension liability, if any,
14 that is attributable to the past employment of the employes
15 whose employment is terminated due to a third-party contract.
16 Nothing in this section shall be construed to prohibit the
17 school employer from obtaining reimbursement from the third-
18 party entity for the cost of the contributions to the share of
19 existing unfunded pension liability, if any, that is
20 attributable to the past employment of the employes whose
21 employment is terminated due to a third-party contract.

22 (b) No contract shall be entered into under this section
23 unless the contract:

24 (1) results in financial savings for the school employer;

25 (2) requires that the third-party entity offer employment to
26 any school employe whose employment is terminated due to the
27 third-party contract, in order of seniority, before hiring any
28 new employe to fill any vacancy for a position that provides
29 services to the school employer; and

30 (3) guarantees that the school employer may terminate the

1 agreement if costs under the agreement exceed the costs
2 projected in the cost comparison required under subsection (a)
3 (3).

4 (c) The school employer shall, at the conclusion of each
5 fiscal year, perform an audit of all expenditures to third-party
6 entities pursuant to contracts entered into under this section.
7 A report of the audit findings shall be made at the first
8 regularly scheduled school board meeting following the
9 conclusion of the fiscal year.

10 (d) No contract under this section may be entered into for a
11 period exceeding three years.

12 (e) The school employer shall provide a minimum of ninety
13 (90) days' notice to any school employe whose employment may be
14 terminated as a result of a contract entered into under this
15 section.

16 (f) Requests for proposals made, proposals submitted and
17 contracts entered into or renewed under this section shall be
18 public records as that term is defined under the act of February
19 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

20 (g) Nothing in this section shall be construed to alter or
21 otherwise affect the rights, remedies and procedures afforded to
22 school employes or exclusive representatives of employes under
23 any Federal or State laws, regulations or court orders, or under
24 the terms of collective bargaining agreements, memoranda of
25 understanding or other agreements between employes and school
26 employers. Subcontracting shall continue to be a mandatory
27 subject of collective bargaining under Federal and State labor
28 laws.

29 (h) Nothing in this section shall be construed to restrict a
30 school entity from entering into a contract with a third-party

1 entity if the school employer and third-party entity comply with
2 the provisions of this section.

3 (i) This section shall not supersede 7 C.F.R. Part 210
4 (relating to National School Lunch Program), where applicable.

5 (j) As used in this section, the following words and phrases
6 shall have the meanings given to them in this subsection unless
7 the context clearly indicates otherwise:

8 (1) "Non-instructional services" shall not include any
9 services provided by a professional employe, a substitute or a
10 temporary professional employe as those terms are defined under
11 section 1101.

12 (2) "School employer" shall mean a board of school
13 directors, an intermediate unit board of directors and an area
14 vocational-technical board of directors.

15 (3) "Third-party entity" shall mean a for-profit service
16 provider, including a business or corporation, which provides
17 non-instructional services, management or personnel functions.
18 The term shall not include an individual.

19 Section 2. This act shall take effect immediately.