

No. 1982-316

AN ACT

HB 1349

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 the number and terms of school directors, for the election and appointment of intermediate unit directors, for school district and intermediate unit contracts with day treatment programs and private residential rehabilitative institutions, for certain payments of costs of tuition and maintenance of certain exceptional children, for reimbursement for certain vocational education expenses, and for tuition charges for the education of certain nonresident children and reenacting required annual reports by institutions of the State System of Higher Education.

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

Section 1. Subsection (a) of section 303, act of March 10, 1949 (P.L.30, No.14), known as the "Public School Code of 1949," amended July 1, 1978 (P.L.575, No.105), is amended to read:

Section 303. Number and Election in Districts of the Second, Third and Fourth Classes; Terms of Office.—(a) In each school district of the second class, and on and after July 1, 1966, or if there is advance establishment July 1, 1964, or July 1, 1965, as the case may be, in each school district of the second, third and fourth class, there shall be a board of nine (9) school directors, who, except as otherwise provided in this act, shall be elected at large for terms of six (6) years. The terms of three of the members shall expire on the first Monday of December of each odd numbered year, as now provided by law. At each municipal election, three school directors, except as otherwise provided in this act, shall be elected at large for terms of six (6) years. Their terms of office shall begin on the first Monday of December following their election. Beginning with the terms to be filled at the municipal election held in 1979 and each odd numbered year thereafter, the terms of school directors so elected shall be four (4) years, *except that at the municipal election in 1983, five (5) school directors shall be elected for terms of four (4) years and one (1) for a term of two (2) years. At the municipal election in 1985 and every four (4) years thereafter, four (4) directors shall be elected for terms of four (4) years. At the municipal election in 1987 and every four (4) years thereafter, five (5) directors shall be elected for terms of four (4) years. The board shall select by lot, prior to the time for filing of nomination petitions, the vacancy that is to be filled for a two (2) year term in 1983.*

* * *

Section 2. Subsection (h) of section 910-A of the act, added June 25, 1982 (P.L.657, No.186), is amended to read:

Section 910-A. Intermediate Unit Board of Directors.—* * *

(h) **[The election or appointment of any director from a member district to an intermediate unit board of directors shall be approved] To stand for election to an intermediate unit board of directors, in accordance with this section and section 911-A, or to stand for appointment to fill a vacancy on an intermediate unit board of directors, in accordance with this section, a director from a member district shall first be nominated by a majority vote of the board of directors of that member district and a record of such vote shall become part of the minutes of said district which record of the vote shall be transmitted to the intermediate unit[, whereupon the intermediate unit shall seat such director as a member of the intermediate unit board of directors] prior to such election or appointment. A person properly elected or appointed, in accordance with this section and section 911-A, shall be seated as a member of the intermediate unit board of directors.**

Section 3. Subsections (a), (b) and (c) of section 914.1-A of the act, added April 6, 1980 (P.L.86, No.30), are amended to read:

Section 914.1-A. Contracts with Private Residential Rehabilitative Institutions.—(a) Intermediate units *and local school districts* shall have the power to contract with private residential rehabilitative institutions for educational services to be provided to children as part of any rehabilitative program required in conjunction with the placement of a child in any such institution *or in a day treatment program of that institution* pursuant to a proceeding under 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

(b) The actual cost [of such services shall be borne by the school district of the child's residence and the department shall effectuate the reimbursement of the various intermediate unit expenditures administratively through the deduction of an] , *not to exceed the tuition charges of the school district in which such private residential rehabilitative institution is located, shall be borne by the school district of the child's residence. If the school district of residence of the child cannot be determined, the costs shall be borne by the Department of Education. The department shall effectuate necessary procedures for the transfer of funds from the school district of residence to the school district or intermediate unit in which the private residential rehabilitative institution is located. In effectuating the transfer of funds, the department may deduct the appropriate amount from the basic instructional subsidy of any school district which had resident students that were provided educational services by a private residential rehabilitative institution.*

(c) For the purpose of this section, a "private residential rehabilitative institution" means a facility, other than one operated by a public agency, which as of December 31, 1977 provided to juveniles legally committed thereto *or legally committed to a day treatment program of that institution* pursuant to a proceeding under the act of December 6, 1972 (P.L.1464, No.333), known as the "Juvenile Act," educational services as part of a total rehabilitative package, funded, at least in part,

through contractual agreements with the county of which each child is a resident, whereby the institution received from the county an amount per diem for each child legally committed thereto[.] *or legally committed to a day treatment program thereof. For the purpose of this section, educational services shall be defined as direct expenditures for instruction and the administration of the instructional program. Any expenditures not pertaining directly to instruction and the administration of the instructional program of the students shall be considered a cost of child welfare services as provided for in sections 704.1 and 704.2, act of June 13, 1967 (P.L.31, No.21), known as the "Public Welfare Code," and as a social service as defined in the regulations promulgated pursuant to that act. Under no circumstances shall a school district or the Department of Education be required to provide funding for programs operated other than during the regular school term or for more than one hundred eighty (180) days of instruction or nine hundred (900) hours of instruction at the elementary level or nine hundred ninety (990) hours of instruction at the secondary level. However, nothing in this section shall be construed to alter or limit the educational rights of exceptional children.*

* * *

Section 4. Section 1310 of the act, amended October 19, 1959 (P.L.1324, No.449), is amended to read:

Section 1310. Assignment of Pupils to Schools.—(a) The board of school directors of every school district or joint school shall, for the purpose of designating the schools to be attended by the several pupils in the district or area served by the joint board, subdivide the district or joint school in such manner that all the pupils in the district shall be assigned to, and reasonably accommodated in, one of the public schools in the district or joint school. The board of school directors may, upon cause shown, permit any pupil or pupils in any school district to attend such other school in the district as the board may deem proper, or may classify and assign the pupils in the district to any school or schools therein as it may deem best, in order to properly educate them. Whenever any child or children of compulsory school age have their residence more than two (2) miles by the nearest public highway from the school within the district to which they have been assigned, and free transportation for such child or children to a school within the district is not provided, and there is a school in session in some other district in the Commonwealth within two (2) miles by the nearest public highway of the residence of such child or children, the board of school directors shall, with the consent of the board of school directors of such other district, reassign such child or children to such school in the other district, and shall pay to said district the tuition charge provided for by this act. This provision shall include in like manner assignment to high schools in the case of pupils of compulsory school age who are qualified to be enrolled in such high schools. It shall be unlawful for any school directors, superintendent, or teacher to make any distinction whatever, on account of, or by reason of, the race or color of any pupil or scholar who may be in atten-

dance upon, or seeking admission to, any public school maintained wholly or in part under the school laws of the Commonwealth.

(b) Notwithstanding anything to the contrary stated within this law, the board of school directors of any school district, in which a day treatment program operated under approval from the Department of Public Welfare by a private children and youth agency is located, may in its discretion purchase educational services for children referred, pursuant to a proceeding under 42 Pa.C.S. Ch. 63 (relating to juvenile matters), to such an agency. Before the board of school directors purchases educational services from the agency for a specific child, it must document that the child cannot receive appropriate educational services in a regular classroom setting because of behavioral or psychological reasons: Provided, however, That nothing contained in this section shall be construed to alter or limit the educational rights of exceptional children.

(c) The actual cost, not to exceed the tuition charges of the school district in which such day treatment program is located, shall be borne by the school district of the child's residence. If the school district of residence of the child cannot be determined, the costs shall be borne by the Department of Education. The department shall effectuate necessary procedures for the transfer of funds from the school district of residence to the school district in which the day treatment program is located. In effectuating the transfer of funds, the department may deduct the appropriate amount from the basic instructional subsidy of any school district which had resident students who were provided educational services by an approved children and youth agency.

(d) For the purpose of this section, educational services shall be defined as direct expenditures for instruction and the administration of the instructional program. Any expenditure not pertaining directly to instruction and the administration of the instructional program of the students shall be considered a cost of child welfare services as provided for in sections 704.1 and 704.2, act of June 13, 1967 (P.L.31, No.21), known as the "Public Welfare Code," and as a social service as defined in the regulations promulgated pursuant to that act. Under no circumstances shall a school district or the Department of Education be required to provide funding for programs operated other than during the regular school term or for more than one hundred eighty (180) days of instruction or nine hundred (900) hours of instruction at the elementary level or nine hundred ninety (990) hours of instruction at the secondary level.

Section 5. Section 1377 of the act is amended by adding a subsection to read:

Section 1377. Payment of Cost of Tuition and Maintenance of Certain Exceptional Children.—* * *

(d) When, during the course of the 1982-1983 school year, programs for exceptional children are caused to be transferred from schools or institutions for the blind or deaf, or cerebral palsied or brain damaged or muscular dystrophied or mentally retarded, or socially and emotionally

disturbed, as provided for in sections 1376 and 1376.1, to school districts or intermediate units, as provided for in sections 2509 and 2509.1, under unanticipated or emergency circumstances, and when such transfers necessitate the transfer of funds from the appropriation to the Department of Education for special education for approved private schools to the appropriation to the Department of Education for payments on account of special education of exceptional children in public schools, the Secretary of Education shall be empowered so to transfer such funds, upon approval of the Secretary of the Budget and written notification to the State Treasurer and the chairmen of the House and Senate Appropriations and Education Committees.

Section 6. The act is amended by adding a section to read:

Section 2017-A. Annual Report.—(a) An annual report shall be submitted by each institution to the Governor and the Appropriations and Education Committees of the Senate and House of Representatives which shall include data for all programs of the institution. Each such report, to be submitted prior to September 1, shall cover the 12-month period beginning with the summer term of the preceding year and shall include:

(1) The following counts and distributions for each term during the period:

(i) The definitions and numbers of faculty members employed full time, of faculty members employed part time, of full-time students enrolled in graduate courses, of full-time students enrolled in undergraduate courses, of part-time students enrolled in graduate courses, and of part-time students enrolled in undergraduate courses.

(ii) Total numbers of undergraduate student credit hours, divided into lower division and upper division course levels, and of graduate student credit hours divided into three course levels—master's, first professional and doctoral.

(iii) Number of different courses scheduled by level of instruction and the number of sections of individual instruction at each level of instruction.

(iv) Number of terms scheduled and the dates thereof.

(2) For the summer term and the following academic year in total and for each two digit HEGIS category of instructional programs in higher education as defined by the National Center for Education Statistics, United States Department of Education, a classification of faculty members or other professional employes by title including: professor, associate professor, assistant professor, instructor, lecturer, research associate, librarian and academic administrator; faculty members or other professional employes under each title to be subdivided by type of assignment: teaching and nonteaching, and each such set of faculty members or other professional employes to be further subdivided by type of employment: full time or part time; and the following aggregates for each subdivided classification:

(i) *The number of faculty and other professional employes and their full-time equivalence in instructional and noninstructional functions.*

(ii) *The sum of credits assigned to undergraduate classroom courses and the sum of credits assigned to graduate classroom courses taught, divided into lower division, upper division, master's, first professional and doctoral course levels.*

(iii) *The sum of credits assigned to undergraduate individual instruction courses and the sum of credits assigned to graduate individual instruction courses taught, divided into lower division, upper division, master's, first professional and doctoral course levels.*

(iv) *The sum of undergraduate classroom student credit hours and the sum of graduate classroom student credit hours generated, divided into lower division, upper division, master's, first professional and doctoral course levels.*

(v) *The sum of undergraduate individual instruction student credit hours and the sum of graduate individual instruction student credit hours generated, divided into lower division, upper division, master's, first professional and doctoral course levels.*

(vi) *Total salary paid for instructional functions and for noninstructional functions and the amount of this salary paid for each of these functions from college or university funds, Federal funds and other funds.*

(3) *For each term of the period covered for each faculty member employed full time identified by two digit HEGIS category and title, the report shall contain an analysis of the average hours per week spent in institution-related activities, stating specifically hours spent in undergraduate classroom contact and graduate classroom contact, hours spent in preparation, hours spent in research and hours spent in public service.*

(b) *In addition to the requirements of subsection (a), each report covering the 12-month period shall include for all programs of the institution:*

(1) *Minimum number of credits required for a baccalaureate degree and for a master's degree.*

(2) *Number of bachelor's degrees, master's degrees, first professional degrees and doctoral degrees awarded in the three previous years and those estimated for that year.*

Section 7. Section 2502 of the act is amended by adding a subsection to read:

Section 2502. Payments on Account of Instruction.—* * *

(h) *Students enrolled in a private residential rehabilitative institution as defined in section 914.1-A or a day treatment program of such an institution or a day treatment program approved by the Department of Public Welfare as provided for in section 1310(b) shall be considered in the weighted average daily membership of the school district of residence for the purpose of making payments under this section.*

Section 8. The act is amended by adding a section to read:

Section 2506.1. Payments on Account of Approved Adult Program Travel.—Every school district shall be paid by the Commonwealth for every school year, on account of approved adult vocational program traveling expenses in the discharge of teaching and supervisory responsibilities of teachers, coordinators, supervisors and directors in vocational education, eighty per centum (80%) of the sum expended by the school district for such approved travel.

Section 9. Section 2561 of the act is amended by adding a clause to read:

Section 2561.—Tuition Charges for Pupils of Other Districts.—***

(6) *When the public school district administers and delivers the educational services required by this act to a child referred to an institution, pursuant to a proceeding under 42 Pa.C.S. Ch. 63 (relating to juvenile matters), at the institution itself, the tuition to be charged to the district of residence of such child shall be one and one-half times the amount determined in accordance with clauses (1) through (5), but not to exceed the actual cost of the educational services provided to such child.*

Section 10. The provisions of this act affecting sections 914.1-A, 1310, 1377, 2502 and 2506.1 of the "Public School Code of 1949" shall be retroactive to July 1, 1982.

Section 11. This act shall take effect immediately.

APPROVED—The 17th day of December, A. D. 1982.

DICK THORNBURGH