

No. 1983-73

## AN ACT

HB 947

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 duties of the school director district reapportionment commission and clarification of the number of school director districts within a first class A school district; further providing for exceptional children; providing for the transfer of certain funds; deleting the time limitation on the conveyance of property to historical societies; further providing for revised computations of certain payments; and conforming provisions on school subsidies to existing law.

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

Section 1. Section 302.1(c)(4), (5), (6) and (8) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, added December 19, 1975 (P.L.511, No.150), are amended to read:

Section 302.1. School Board in First Class A School Districts; Apportionment of Seats, and Numbers, Terms, and Methods for Election of School Directors in First Class A School Districts.—\* \* \*

(c) Apportionment.

\* \* \*

(4) **[Each] No later than September in the second year following the year in which [such] Federal census data is officially [reported] gathered, a school director district reapportionment commission shall be [constituted in like manner and with like composition as the initial school director district apportionment commission herein set forth.] appointed. Said reapportionment commission shall consist of seven members, three to be appointed by the mayor of the most populous municipality in the school district, three by the city council of such municipality and one by the mayor of any other municipality of the school district with the approval of the legislative body thereof. The duties of the reapportionment commission shall be, from the official data of the United States Bureau of the Census, to define the lines that divide the existing school director districts to make any new school director districts as nearly equal in population as practicable, and as compact and contiguous as possible, and to best provide for racial balance on the board of school directors of said school district. The number of school directors or school director districts shall not be increased or decreased. In addition, the reapportionment commission shall make every effort to maintain neighborhood boundary lines of communities of like interest whenever practicable.** Such reapportionment commission shall file its plan no later than **[forty-five] ninety** days after either the commission has been **[duly certified] appointed** or the **specified** population data for the first class A school district as determined by the Federal decennial census are available, whichever is later in time.

(5) The school district shall appropriate sufficient funds for the compensation and expenses of members and staff appointed by such apportionment and reapportionment commissions, and other necessary expenses. The members of such commissions shall be entitled to such compensation for their services as the school district from time to time shall determine[, but no part thereof shall be paid until a plan is filed].

(6) If an apportionment or reapportionment plan is not filed by the commission within the time prescribed by this section, the court of common pleas of the county in which the district is located shall immediately proceed on its own motion to apportion or reapportion the school director districts, *in accordance with the standards set forth in subsection (c)(4).*

\* \* \*

(8) The county board of elections shall place upon the ballot to be submitted to the voters of each first class A school district under the act of June 3, 1937 (P.L.1333, No.320), known as the "Pennsylvania Election Code," the following question:

Shall the apportionment plan submitted by	
the school director district apportionment	Yes
commission for the election of members of	
the Board of Public Education of the school	No
district of. . . . .	be approved?

*Since the voters have accepted the apportionment plan, the number of school director districts contained in the apportionment plan shall be the permanent number of school director districts in said school district, and said permanent number of school director districts shall neither be increased nor decreased by any future reapportionment commission nor by the court of common pleas of the county in which the school district is located. The ballot question shall not be considered in the case of a reapportionment plan submitted by a reapportionment commission or the court of common pleas.*

**[In the event the voters shall reject the apportionment plan, the nomination of school directors under this section shall be void and the present board shall continue, but a second referendum, upon the petition of fifteen per cent of the registered voters of the school district, may be held after two years from the date of the first election.]**

\* \* \*

Section 2. Section 707(10) of the act, amended October 25, 1967 (P.L.486, No.232), is amended to read:

Section 707. Sale of Unused and Unnecessary Lands and Buildings.—The board of school directors of any district is hereby vested with the necessary power and authority to sell unused and unnecessary lands and buildings, by any of the following methods and subject to the following provisions:

\* \* \*

(10) Notwithstanding the foregoing provisions of this section, any school district may[, at any time prior to July 1, 1969,] convey any unused and unnecessary lands and buildings which are of historical significance and importance to any legally constituted historical society for historical purposes without consideration or for such consideration and on such terms or

exchange or otherwise as may be agreed upon without complying with the other provisions of this section.

Section 3. Section 1376 of the act, amended May 31, 1979 (P.L.33, No.11), is amended to read:

Section 1376. Cost of Tuition and Maintenance of Certain Exceptional Children in Approved Institutions.—(a) When any child between the ages of six (6) and twenty-one (21) years of age *and* resident in this Commonwealth, who is blind or deaf, or afflicted with cerebral palsy and/or brain damage and/or muscular dystrophy and/or mentally retarded and/or socially and emotionally disturbed, is enrolled, with the approval of the Department of Education, as a pupil in **[any of the schools or institutions] an approved school** for the blind or deaf, or cerebral palsied and/or brain damaged and/or muscular dystrophied and/or mentally retarded, and/or socially and emotionally disturbed, **[under the supervision of, subject to the review of or]** approved by the Department of Education, in accordance with standards and regulations promulgated by the Council of Basic Education, the school district in which such child is resident shall pay twenty per centum (20%) of the *actual audited* cost of tuition and maintenance of such child in such school **[or institution]**, as determined by the Department of Education; and the Commonwealth shall pay, out of funds appropriated to the department for special education, eighty per centum (80%) of the cost of their tuition and maintenance, as determined by the Department. If the residence of such child in a particular school district cannot be determined, the Commonwealth shall pay, out of moneys appropriated to the department for special education, the whole cost of tuition and maintenance of such child. **[In no event shall the total cost of tuition and maintenance for blind, deaf, cerebral palsied and/or brain damaged and/or muscular dystrophied and/or socially and emotionally disturbed and/or mentally retarded residential students exceed nine thousand five hundred dollars (\$9,500) for the school year 1979-1980 and ten thousand five hundred dollars (\$10,500) for the school year 1980-1981 and each year thereafter for tuition of blind, deaf, cerebral palsied and/or muscular dystrophied day students exceed five thousand six hundred dollars (\$5,600) for the school year 1979-1980 and six thousand one hundred dollars (\$6,100) for the school year 1980-1981 and each year thereafter and for tuition of brain damaged and/or socially and emotionally disturbed and/or mentally retarded day students exceed four thousand six hundred dollars (\$4,600) for the school year 1979-1980 and five thousand one hundred dollars (\$5,100) for the school year 1980-1981 and each year thereafter.]** The Department of Education shall be provided with such financial data from **[private] approved** schools as may be necessary to determine the reasonableness of **[charges] costs** for tuition and room and board **[of the institution made on] concerning** Pennsylvania resident approved reimbursed students. The Department of Education shall evaluate such data and shall disallow any **[charge] cost** deemed unreasonable. Any **[charges] costs** deemed unreasonable by the Department of Education for disallowance shall be considered an adjudication within the meaning of Title 2 of the Pa.C.S. (relating to administrative law and procedure) and regulations promulgated thereunder.

(b) When any person less than six (6) or more than twenty-one (21) years of age *and* resident in this Commonwealth, who is blind or deaf, or afflicted with cerebral palsy and/or brain damage and/or muscular dystrophy, is enrolled, with the approval of the Department of Education, as a pupil in **[any of the schools or institutions] an approved school** for the blind or deaf, or cerebral palsied and/or brain damaged and/or muscular dystrophied, **[under the supervision of or]** approved by the Department of Education, the Commonwealth shall pay to such school **[or institution]**, out of moneys appropriated to the department for special education, the *actual audited* cost of tuition and maintenance of such person, as determined by the Department of Education, subject to review and approval in accordance with standards and regulations promulgated by the Council of Basic Education, and in addition, in the case of any child less than six (6) years of age, who is blind, the cost, as determined by the Department of Education of instructing the parent of such blind child in caring for such child. **[In no event shall the total cost of tuition and maintenance for residential students exceed nine thousand five hundred dollars (\$9,500) for the school year 1979-1980 and ten thousand five hundred dollars (\$10,500) for the school year 1980-1981 and each year thereafter for tuition of deaf or blind and/or cerebral palsied and/or muscular dystrophied day students, exceed five thousand six hundred dollars (\$5,600) for the school year 1979-1980 and six thousand one hundred dollars (\$6,100) for the school year 1980-1981 and each year thereafter and for tuition of brain damaged day students four thousand six hundred dollars (\$4,600) for the school year 1979-1980 and five thousand one hundred dollars (\$5,100) for the school year 1980-1981 and each year thereafter.]**

(c) When any child between the ages of six (6) and twenty-one (21) years of age, resident in this Commonwealth, who is socially and emotionally disturbed, is enrolled with the approval of the Department of Education as a pupil in any approved day school under supervision of or approved by the Department of Education, the school district in which such child is resident shall pay twenty percent (20%) of the cost of tuition of such child in such school as determined by the Department of Education, and the Commonwealth shall pay out of funds appropriated to the Department for Special Education eighty percent (80%) of the cost of tuition of such child as determined by the department: Provided, however, That in no event shall the cost of tuition of such child exceed four thousand six hundred dollars (\$4,600) for the school year 1979-1980 and five thousand one hundred dollars (\$5,100) for the school year 1980-1981 and each year thereafter.]

*(c) Each approved school, prior to the start of the school year, shall submit to the department such information as the department may require in order to establish an estimate of reimbursable costs. Based upon this information, any other data deemed necessary by the department and in accordance with department standards, the department shall develop for each approved school an estimate of reimbursable costs. Based upon such estimate, the department shall provide each approved school with quarterly payments in advance of department audit. The department may withhold a portion of such payments not exceeding five percent (5%) of such payment,*

*pending final audit. In no event shall either the advance payments or final reimbursement made by the department following audit exceed the appropriation available for approved schools.*

(d) No private institution receiving payment in accordance with this section shall impose any charge on the student and/or parents who are Pennsylvania approved reimbursable residents for a program of *individualized* instruction and maintenance appropriate to the child's needs; except that charges for [programs] *services* not part of [the normal school year] *such program* may be made *if agreed to by the parents*.

(e) Where the private institution provides a vocational education program to the students enrolled therein as an established and integral part of its on-going approved program and where the department deems such program to be necessary because of the unavailability of an appropriate program for such students, the maximum rate payable shall be increased by the audited cost of the program per approved Pennsylvania resident enrolled in the program.

(f) Where the private institution provides special education programs for multihandicapped students which is adjudged necessary by the Department of Education, the maximum rate payable shall be increased by seventy-five percent (75%) for the second severe handicap, eighty-five percent (85%) for the third severe handicap and one hundred percent (100%) for more than three severe handicaps.]

Section 4. The act is amended by adding a section to read:

*Section 1377.1. Transfer of Funds for Transferal Programs.—When, during the course of a school year or after the end of a 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, 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 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 5. Section 2501(9.2), (14), (15) and (17.1) of the act, (9.2) added August 24, 1977 (P.L.199, No.59), (14) added February 1, 1966 (1965 P.L.1642, No.580), (15) amended June 30, 1980 (P.L.279, No.80) and (17.1) amended July 13, 1979 (P.L.94, No.41), are amended and clauses are added to read:

Section 2501. Definitions.—For the purposes of this article the following terms shall have the following meanings:

\* \* \*

(9.2) "Equalized Millage." A school district's tax effort to be used for **[purposes of determining the base earned for reimbursement and used for]** reimbursement under subsections (d) and (e) of section 2502 *and section 2502.11*, shall be the amount of local school taxes collected during the year for which reimbursement is being computed, divided by the most recent real property valuation of the school district.

\* \* \*

(14) "Aid Ratio." **[shall represent the Commonwealth's share of reimbursable cost as defined in clause (12).]** The aid ratio shall be determined in the following manner: (a) divide the market value per weighted average daily membership of the district by the market value per weighted average daily membership of the State; (b) determine the product of (a) multiplied by **[district's share of total cost]** 0.50; (c) subtract the resultant product in (b) from one (1.0000) to determine the aid ratio.

$$\text{Aid Ratio} = 1.0000 - \frac{\text{District MV/WADM}}{\text{State MV/WADM}} \times 0.50$$

\* \* \*

(15) "Minimum Subsidy." For the school years 1976-1977 and 1977-1978, in no case shall a district receive for each pupil in weighted average daily membership, an amount less than ten percent (10%) of the actual cost of instruction or ten percent (10%) of the base earned for reimbursement whichever is the lesser amount. For the 1978-1979 school year **[and each school year thereafter]** *through the 1980-1981 school year*, no school district shall receive for each pupil in weighted average daily membership an amount less than fifteen percent (15%) of the base earned for reimbursement or actual instructional expense per WADM, whichever is the lesser amount. For **[1976-1977 and each school year thereafter]** *the 1976-1977 school year through the 1980-1981 school year*, a district whose actual instruction expense per weighted average daily membership is more than two hundred dollars (\$200) less than the median actual instruction expense per weighted average daily membership, and whose equalized millage is within fifteen percent (15%) of the median equalized millage, the reimbursement shall be two hundred dollars (\$200) below the median actual instruction expense per weighted average daily membership times the district's aid ratio for each weighted average daily membership. *For the 1982-1983 school year and each school year thereafter, no school district shall receive for each pupil in weighted average daily membership an amount less than fifteen percent (15%) of the factor for educational expense.*

\* \* \*

(17.1) "Base Earned for Reimbursement." **[Shall]** *For the school year 1982-1983 and every school year thereafter, for purposes of calculations under section 2502.8 of the act, base earned for reimbursement shall* be the lesser of **[(a)]** the actual instruction expense per weighted average daily membership of the district, or **[(b)]** the amount earned as follows:

(i) Subtract the individual school district's equalized millage from the highest equalized millage in the State.

(ii) Divide the amount determined in subclause (i) by the difference between the highest and lowest equalized millage in the State.

(iii) Multiply the quotient determined in subclause (ii) by two hundred dollars (\$200) and round to the nearest whole dollar amount.

(iv) Subtract the amount determined in subclause (iii) from the median actual instruction expense per weighted average daily membership in the year for which reimbursement is being computed.

**(18) "Equalized Subsidy for Basic Education." For the school year 1982-1983 and each school year thereafter, each school district shall be paid by the Commonwealth an equalized subsidy for basic education, which shall consist of payments on account of instruction, as provided for in subsections (d) and (e) of section 2502, and an economic supplement, as provided for in section 2502.11.**

**(19) "Factor for Educational Expense." For the school year 1982-1983 and each school year thereafter, the factor for educational expense used to compute school district entitlements to payments on account of instruction, as provided for in subsection (d) of section 2502, shall be one thousand six hundred fifty-six dollars (\$1,656) unless later changed by statute.**

Section 6. Section 2502(d) of the act, amended August 24, 1977 (P.L.199, No.59), is amended to read:

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

(d) For the school year 1976 and 1977 **[and each school year thereafter] through the 1980-1981 school year**, each school district shall be paid by the Commonwealth on account of instruction of the district's pupils an amount to be determined by multiplying the market value/income aid ratio times the actual instruction expense per weighted average daily membership or by the base earned for reimbursement, whichever is less, and by the weighted average daily membership for the district. For the school year 1976-1977 any school district which, as a result of the impact on payments under subsections (d), (e) and (f) and under section 2592 by reason of the market value/income aid ratio or the application of equalized millage to the base earned for reimbursement, shall suffer a reduction in subsidy entitlement, shall be held harmless from this impact and shall receive an amount which is no less than that received for 1976-1977 under such subsections and under section 2592. **For the 1982-1983 school year and each school year thereafter, each school district shall be paid by the Commonwealth on account of instruction of the district's pupils an amount to be determined by multiplying the district's market value/income aid ratio by the factor for educational expense, one thousand six hundred fifty-six dollars (\$1,656), and by the weighted average daily membership of the district.**

\* \* \*

Section 7. Section 2502.5 of the act, amended June 26, 1974 (P.L.370, No.125), is amended to read:

Section 2502.5. Limitation of Certain Payments.—(a) Notwithstanding any other provision of law, for the school year 1970-1971 **[and each school year thereafter] through the school year 1980-1981**, no school district shall be paid under subsections (d) and (e) of section 2502 or section 2592, whichever

is applicable, and subsection (f) of section 2502, and section 2502.3 and section 2502.4 of this act an amount in excess of one hundred percent (100%) of the total approved reimbursable instructional expenditures of such school district. The provisions of this [section] *subsection* shall not apply to any school district receiving any payment under subsection (g) of section 2502 of this act.

*(b) Notwithstanding any other provisions of law, for the school year 1982-1983 and each school year thereafter, no school district shall be paid under subsections (d) and (e) of section 2502 and section 2502.11 an amount in excess of one hundred percent (100%) of the total reimbursable instructional expenditures of the school district. For the 1982-1983 school year, all school districts qualifying for payments under subsections (d) and (e) of section 2502 and section 2502.11 shall be limited to an increase payment on account of those sections which shall not exceed nine percent (9%) over the sums received on account of section 2502.9 for the 1981-1982 school year, nor shall any school district receive an increase of less than two percent (2%) of the 1982-1983 school year payments on account of the 1981-1982 school year.*

Section 8. Section 2502.6 of the act, amended May 11, 1982 (P.L.396, No.115), is amended to read:

Section 2502.6. Proportionate Reduction of Payments.—*(a) If the sums appropriated for the 1978-1979 school year [and each school year thereafter] through the 1981-1982 school year are not sufficient to pay in full the total amounts to which all qualified school districts, intermediate units and nonpublic schools are entitled to receive under the provisions of sections 917.1-A, 919.1-A, 922.1-A, 923-A(d), 2501, 2502, 2502.3, 2502.4, and 2502.8 for such year, the allocations to the school districts, intermediate units and nonpublic schools shall be proportionately reduced to the extent necessary to bring the aggregate of the school district, intermediate unit and nonpublic school allocations within the limits of the amounts appropriated. However, no school district's gross allocation under the provisions of the sections referred to herein shall be less for the 1978-1979, 1979-1980, 1980-1981 or the 1981-1982 school year than its gross allocation under such sections for the previous school year.*

*(b) If the sums appropriated for the 1982-1983 school year and each school year thereafter are not sufficient to pay in full the total amounts to which all qualified school districts, intermediate units and nonpublic schools are entitled to receive under the provisions of sections 917.1-A, 919.1-A, 922.1-A, 923-A(d) and 2502.8 for such year, the allocations to the school districts, intermediate units and nonpublic schools shall be proportionately reduced to the extent necessary to bring the aggregate of the school district, intermediate unit and nonpublic school allocations within the limits of the amounts appropriated.*

Section 9. Section 2502.10 of the act, added June 25, 1982 (P.L.643, No.182), is amended by adding a subsection to read:

Section 2502.10. Temporary Special Aid to School Districts Due to Real Property Reassessments.—\*\*\*



(d) *The provisions of this subsection shall apply to any school district qualifying for the temporary aid provided for in this section and receiving its second year of such aid during the 1982-1983 school year. For the purpose of computing a school district's equalized subsidy for basic education for the 1982-1983 school year, as provided for and limited by 24 Pa.C.S. § 2903(b)(2) (relating to limitation of certain payments), the Department of Education shall adjust the computation of payments on account of section 2502.9 of this act for the 1981-1982 school year as follows: the department shall recompute the district's guarantee, as provided for in section 2502.9(a) of this act, by adding to the computation of the guarantee for the 1980-1981 school year the amount of the second year payment of temporary special aid provided for in this section: Provided, however, That no district shall receive a lesser subsidy for the 1982-1983 school year as a result of such revised computation, nor a subsidy in excess of the full amount to which it would be entitled under the provisions of 24 Pa.C.S. §§ 2902 (relating to payments on account of instruction) and 2905 (relating to economic supplement) and that no district shall be entitled to an increased subsidy payment for the 1981-1982 school year as a result of such revised computation.*

Section 10. The act is amended by adding sections to read:

*Section 2502.11. Economic Supplement.—(a) For the school year 1982-1983 and each school year thereafter, each qualifying school district shall be paid, in addition to any other payments to which it is entitled, an economic supplement, based upon children in low-income families, local tax effort and population per square mile.*

*(b) For the school year 1982-1983 and each school year thereafter, each qualifying school district shall be paid on account of children in low-income families an amount in accordance with the following table:*

<i>Percentage of Low-Income Pupils In Average Daily Membership</i>	<i>Grant Per Low-Income Pupil</i>
<i>10 - 19.9</i>	<i>\$100</i>
<i>20 - 39.9</i>	<i>\$300</i>
<i>40 or over</i>	<i>\$500</i>

*For the 1982-1983 school year and each school year thereafter, low-income pupils are defined for purposes of this section as children aged five (5) to seventeen (17) years, inclusive, in families receiving a grant in excess of two thousand dollars (\$2,000) from the Commonwealth on account of dependent children under Title IV of the Federal Social Security Act.*

*(c) For the school year 1982-1983 and each school year thereafter, any district which levies and collects local taxes for school purposes equal to or above the median equalized millage, as defined in section 2501(9.3), in the year for which reimbursement is determined shall qualify for and receive a payment based upon local tax effort and population per square mile in accordance with the following table, except for qualifying districts which include a central city of a Standard Metropolitan Statistical Area and have a district population of less than four thousand (4,000) persons per square mile, which districts shall receive three percent (3%) of their instructional expenditures:*

<i>Population Per Square Mile of the Qualifying District</i>	<i>Payment as Percent of Instructional Expenditure</i>
<i>5,950 and over</i>	<i>5</i>
<i>4,000 - 5,949</i>	<i>3</i>
<i>less than 4,000</i>	<i>1</i>

*Notwithstanding the provisions of this table, qualifying districts having a general population of five thousand nine hundred fifty (5,950) or more persons per square mile and at least thirty-five thousand (35,000) WADMs shall be paid nineteen percent (19%) of their instructional expenditures.*

*Section 2502.12. Revised Computations of Certain Payments.—For the purpose of computing a school district's equalized subsidy for basic education for the 1982-1983 school year, as provided for and limited by 24 Pa.C.S. § 2903(b)(2) (relating to limitation of certain payments), the Department of Education shall adjust the computation of payments on account of section 2502.9 of this act for the 1981-1982 school year as follows: the department shall recompute the district's guarantee, as provided for in section 2502.9(a) of this act, for the 1980-1981 school year, so as not to account for the subsidy increase limitation imposed by the act of July 1, 1981 (P.L.628, No.5A), known as the "General Appropriation Act of 1981": Provided, however, That no district shall receive a lesser subsidy for the 1982-1983 school year under the provisions of 24 Pa.C.S. §§ 2902 (relating to payments on account of instruction) and 2905 (relating to economic supplement), or section 2502.10 of this act, as a result of such revised computation and that no district shall be entitled to an increased subsidy payment for the 1981-1982 school year as a result of such revised computation. If the amounts appropriated for the equalized subsidy for basic education for the 1982-1983 school year are insufficient to pay in full the amounts to which districts affected by the limitation in the "General Appropriation Act of 1981" are entitled, payments to such districts shall be proportionately reduced to the extent necessary to bring the payments within the limits of the amounts appropriated: Provided, however, That computation of payments to be made beginning in the 1984-1985 fiscal year shall be based upon a district's full entitlement under the provisions of this section, any such proportionate reduction notwithstanding.*

Section 11. Section 2517(d) of the act, amended May 11, 1982 (P.L.396, No.115), is amended to read:

Section 2517. Payments.—\* \* \*

(d) Subsection (c) of this section shall apply to all payments to which a school district is entitled under any provision of sections 2502, 2502.3, 2502.4, 2502.8, 2502.9 and 2592 for the school year 1981-1982 and to payments to which a school district is entitled under any provision of sections 2502, 2502.8 and 2502.11 for the school year 1982-1983 and each school year thereafter.

Section 12. Part II of Title 24 of the Pennsylvania Consolidated Statutes (relating to basic education) is repealed.

Section 13. Sections 4, 5, 6, 7, 8, 9, 10 and 11 of this act shall be retroactive to July 1, 1983.

Section 14. This act shall take effect immediately.

APPROVED—The 20th day of December, A. D. 1983.

DICK THORNBURGH