

No. 2000-91

AN ACT

SB 1403

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," providing for CPR instruction; further providing for attendance in district to which territory of residence formerly attached; providing for safe schools advocates and for safe schools standing to sue and enforcement; further providing for agricultural education; establishing the Pennsylvania Athletic Oversight Council; providing for interscholastic athletics accountability; further providing for transportation, for education empowerment definitions and for lists and districts; and providing for an education empowerment pilot program.

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

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

Section 1205.4. CPR Instruction.—(a) School entities shall be required to offer a cardiopulmonary resuscitation training (CPR) class on school premises at least once every three years. The course shall be offered as an option to all employes of the school entity.

(b) Completion of training, including testing of skills and knowledge, shall be documented by the signature and title of a representative of the training entity and shall include the date training was completed. Documentation shall be retained in the facility in that employe's file. Training shall be conducted by:

(1) the American Red Cross;

(2) the American Heart Association;

(3) an individual certified to conduct CPR training by the American Red Cross, American Heart Association or other certifying agency approved by the Department of Health; or

(4) other certifying agency approved by the Department of Health.

(c) School districts may include this training in the continuing education plan submitted by the district to the Department of Education under section 1205.1.

(d) For purposes of this section, a school entity shall be defined as a local school district, intermediate unit or area vocational-technical school.

Section 2. Section 1314 of the act is amended to read:

Section 1314. Attendance in District to Which Territory of Residence Formerly Attached.—(a) All pupils residing in any territory belonging to any school district established by the act, approved the eighteenth day of May, one thousand nine hundred eleven (Pamphlet Laws 309), which

territory at the time of the approval of said act was attached to another school district for school purposes, may, if they so desire, attend during the entire school term of each year the public schools in the district to which the territory in which they reside was formerly attached. The district in which they reside shall pay to the district in which they attend the tuition charge provided for by this act: Provided, That if the school districts in which such pupils now reside has or shall hereafter, by the establishment of new schools or otherwise, provide within reasonable distance proper school facilities of like grades to those in the district to which they were formerly attached, then in any such case, such pupils shall attend the schools in the district in which they reside. In case of dispute, the decision of the Superintendent of Public Instruction as to sufficiency and reasonableness of the school facilities provided by the school district in which such pupils reside shall be final.

(b) Pupils and their younger siblings under the age of twenty-one (21) years, born or yet unborn of a family that resides in the territory, that is located in a county of the second class, that has been transferred from a township of the first class which has adopted a home rule charter under the former act of April 13, 1972 (P.L.184, No.62), known as the "Home Rule Charter and Optional Plans Law," or under 53 Pa.C.S. Pt. III Subpt. E (relating to home rule and optional plan government) located in a school district of the second class, to a township of the first class located in a school district of the second class, for school purposes may, if they so desire, continue to attend the public schools in the district to which the territory in which they reside was formerly attached for the duration of their attendance in public schools. The district in which they reside shall pay to the district in which they attend the lesser of the State subsidy of the district of residence or the district of attendance in accordance with provisions regarding basic education funding.

Section 3. The act is amended by adding sections to read:

Section 1310-A. Safe Schools Advocate in School Districts of the First Class.—(a) The Secretary of Education shall establish, within the office, a safe schools advocate for each school district of the first class. The advocate shall not be subject to the act of August 5, 1941 (P.L.752, No.286), known as the "Civil Service Act." The advocate shall establish and maintain an office within the school district.

(b) The safe schools advocate shall have the power and its duties shall be:

(1) To monitor the school district's compliance with this article, including:

(i) the school district's reporting to the office of incidents involving acts of violence, possession of a weapon or possession, use or sale of controlled substances as defined in the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic

Act," or possession, use or sale of alcohol or tobacco by any person on school property;

(ii) obtaining copies of the school district's reports to the office and reviewing and analyzing them;

(iii) the school district's compliance with the procedures set forth in the memorandum of understanding with the appropriate police department regarding incidents involving acts of violence and possession of weapons; and

(iv) obtaining documentation, on a weekly basis during those times when school is in session, of all written or verbal contacts by school district personnel with the appropriate police department consistent with the requirements of the memorandum of understanding.

(2) To monitor the school district's compliance with the mandatory expulsion requirements of section 1317.2.

(3) To receive inquiries from school staff and parents or guardians of students who are victims of acts of violence on school property.

(4) To establish a protocol, in consultation with the Juvenile Court Judges' Commission, to assure timely receipt by the school district of information regarding students who have been adjudicated delinquent pursuant to 42 Pa.C.S. § 6341(b.1) (relating to adjudication) and to monitor the school district's use of that information to ensure that victims of acts of violence by a student are protected.

(5) To establish a program to assure extensive and continuing public awareness of information regarding the role of the advocate on behalf of victims of acts of violence on school property, which may include the mailing of information to the parents or guardians of students in the school district or other forms of communication.

(6) To review and analyze Federal and State statutes which may be an impediment to school safety and the imposition of discipline for the commission of acts of violence on school property and to prepare, by April 30, 2001, and as necessary from time to time thereafter, reports making recommendations for changes to the statutes which would promote school safety and facilitate effective and expedient disciplinary action. The reports shall be submitted to the secretary.

(7) To review and analyze court decisions applicable to the school district's disciplinary process and procedures, to make recommendations to the school district regarding any negative impact these decisions have upon the effective maintenance of school safety and to make recommendations relating to the existing provisions of consent decrees.

(8) To prepare an annual report regarding the activities of the advocate during the prior fiscal year and any recommendations for remedial legislation, regulations or school district administrative reforms, which shall be submitted to the school district superintendent, the secretary, the chairperson of the Education Committee of the Senate and

the chairperson of the Education Committee of the House of Representatives by August 15 of each year.

(9) To monitor infractions of the school district's code of conduct to identify students whose conduct would constitute an offense under 18 Pa.C.S. § 2701 (relating to simple assault).

(c) The safe schools advocate shall, on behalf of victims of acts of violence on school property, victims of conduct that would constitute an act of violence and victims of students who have committed two or more infractions as set forth in subsection (b)(9):

(1) provide assistance and advice, including information on support services provided by victim assistance offices of the appropriate district attorney and through local community-based victim service agencies;

(2) provide information to the parent or guardian of the student victim regarding the disciplinary process and any action ultimately taken against the student accused of committing the act of violence;

(3) in cases involving the possession or use of a weapon, advise the parent or guardian of the victim whether the school district properly exercised its duty under section 1317.2;

(4) in cases where the advocate has received a request by the parent or guardian of the victim, to attend formal disciplinary proceedings;

(5) with the consent of the parent or guardian of the victim, present information in the disciplinary proceeding, which may include oral or written presentations, including testimony by the victim or the parent or guardian of the victim, regarding the impact on the victim and the victim's family and the appropriate disciplinary action and which may include direct or cross-examination of witnesses;

(6) where the perpetrator of an act of violence is returning to school after placement under a consent decree, adjudication of delinquency or conviction of a criminal offense, assist the parent or guardian of the victim in providing input to the school district and the appropriate juvenile or criminal justice authority to ensure the victim's safety on school property;

(7) in cases where the district has failed to report the act of violence to the appropriate police department as required by the memorandum of understanding, to report such act of violence directly; and

(8) provide information and make recommendations to the office of the district attorney regarding the impact of the act of violence on the victim and the victim's family.

(d) Upon discovery of the commission of an act of violence upon a student, the school district of the first class shall immediately notify the victim's parent or guardian of the safe schools advocate. The form of this notice shall be developed by the advocate and provided to the school district. This form shall include the address and telephone number of the advocate and a brief description of the purposes and functions of the safe schools advocate. The principal of each school within the school district

shall post a notice not less than 8 1/2 by 11 inches entitled "Safe Schools Advocate" at a prominent location within each school building, where such notices are usually posted. The form of this notice shall also be developed by the advocate and provided to the school district.

(e) It shall be the duty of each school administrator in a school district of the first class to cooperate with the safe schools advocate to implement this section and to provide the advocate, upon request, with all available information authorized by State law. In regard to individual cases of acts of violence, only information permitted to be shared under subsection (f) shall be disclosed.

(f) The advocate and all employes and agents of the safe schools advocate shall be subject to and bound by section 444 of the General Education Provisions Act (Public Law 90-247, 20 U.S.C. § 1232g) and 34 CFR Pt. 99 (relating to family educational rights and privacy).

(g) This section shall not apply to the extent that it would conflict with the requirements of the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.) or other applicable Federal statute or regulation.

(h) As used in this section:

"Act of violence" shall mean the possession of a weapon on school property or an offense, including the attempt, solicitation or conspiracy to commit the offense, under any of the following provisions of 18 Pa.C.S. (relating to crimes and offenses):

- (1) Section 2501 (relating to criminal homicide).
- (2) Section 2702 (relating to aggravated assault).
- (3) Section 3121 (relating to rape).
- (4) Section 3122.1 (relating to statutory sexual assault).
- (5) Section 3123 (relating to involuntary deviate sexual intercourse).
- (6) Section 3124.1 (relating to sexual assault).
- (7) Section 3125 (relating to aggravated indecent assault).
- (8) Section 3126 (relating to indecent assault).
- (9) Section 3301 (relating to arson and related offenses).
- (10) Section 3701 (relating to robbery).
- (11) Section 3702 (relating to robbery of motor vehicle).

"School district" shall mean school district of the first class.

Section 1311-A. Standing.—(a) If a student in a school district of the first class is a victim of an act of violence involving a weapon on school property and the student who possessed the weapon was not expelled under section 1317.2, the parent or guardian of the victim shall have standing to institute a legal proceeding to obtain expulsion of the student.

(b) The Office of General Counsel shall have standing to bring an action on behalf of a victim or the parent or guardian of a victim of an act of violence in a school in a school district of the first class to modify, clarify or eliminate a consent decree that is related to discipline in the district if, in consultation with the advocate, the Office of General

Counsel believes that the action is in the best interests of the students of the school district.

(c) The Secretary of the Budget may designate a portion of the funds provided for the safe schools advocate for contracts for legal services to assist low-income parents or guardians of victims to obtain legal services for proceedings under subsection (a). The Secretary of the Budget may designate a portion of the funds provided for the advocate to challenge a consent decree under subsection (b) or to bring an action under sections 1310-A(c)(5) and 1312-A(a). The designation of attorneys to receive funds under this subsection shall be within the discretion of the Office of General Counsel after consultation with the safe schools advocate. Designated funds which are not expended under this subsection shall lapse to the General Fund.

(d) Legal proceedings under this section shall be conducted by an attorney designated by the Office of General Counsel in consultation with the safe schools advocate. The attorney must be a member of the bar in good standing.

(e) The appropriation for the Office of School Victim Advocate in section 202 of the act of May 24, 2000 (P.L.1086, No.21A), known as the "General Appropriation Act of 2000," shall be used to implement this section and sections 1310-A and 1312-A.

(f) As used in this section, "low-income parent or guardian" shall mean a parent whose family income is no greater than two hundred fifty per centum (250%) of the Federal poverty level.

Section 1312-A. Enforcement.—(a) If the school district of the first class fails to comply with requirements to provide information to the safe schools advocate under section 1310-A, the advocate shall provide documentation of the failure to the Department of Education. If the department determines that there is noncompliance, the department shall notify the advocate and the Office of General Counsel. The Office of General Counsel, in consultation with the safe schools advocate, shall designate an attorney to bring an action in a court of competent jurisdiction to enforce section 1310-A.

(b) Legal proceedings under subsection (a) shall be conducted by an attorney designated by the Office of General Counsel in consultation with the safe schools advocate. The attorney must be a member of the bar in good standing.

Section 1313-A. Construction of Article and Other Laws.—Nothing in this article or any other provision of law shall be construed as granting a right of status for or participation by the safe schools advocate in a grievance or arbitration proceeding arising out of a collective bargaining agreement.

Section 4. Section 1549(b) and (c) of the act, added June 30, 1995 (P.L.220, No.26), are amended to read:

Section 1549. Agricultural Education.—* * *

(b) The department shall have the power and its duty shall be to:

(1) Provide, *in conjunction with the Department of Agriculture*, resource information to educators and public and private schools and organizations on agricultural education.

(2) Provide [for], *in conjunction with the Department of Agriculture, for the development and* distribution to school entities or private or nonpublic kindergartens, elementary or secondary schools in this Commonwealth materials on agricultural education. Such materials may include instruction on issues related to agriculture, including, but not limited to, food safety, pesticides, farmland preservation, waste management, wetlands, nutrient management, food production and food processing, animal health and statutory and regulatory protections of the right to farm.

(3) Identify, recognize and establish, *in conjunction with the Department of Agriculture*, awards for exemplary agricultural education curricula developed in Commonwealth schools.

(4) Use local school district occupational advisory committees, *as well as the facilities and equipment of the Department of Agriculture*, to serve as the conduit to bring youth and adult education programs into communities and schools, focusing on agricultural industry issues of importance to this Commonwealth.

(5) *Maintain, in conjunction with the Department of Agriculture, an inventory of agricultural education materials, programs and resources available in Commonwealth agencies.*

(c) The secretary shall prepare and submit, *in conjunction with the Department of Agriculture*, an annual report to the Governor and the General Assembly [outlining] *on the status of agricultural education in this Commonwealth. The report shall outline* agricultural education programs and achievements, [highlighting] *highlight* new initiatives and [recommending] *recommend* future program needs.

* * *

Section 5. The act is amended by adding an article to read:

ARTICLE XVI-A.

INTERSCHOLASTIC ATHLETICS ACCOUNTABILITY.

Section 1601-A. Scope.—This article deals with interscholastic athletics accountability.

Section 1602-A. Definitions.—The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Association.” The Pennsylvania Interscholastic Athletic Association.

“Committee.” The Legislative Budget and Finance Committee.

“Council.” The Pennsylvania Athletic Oversight Council as established in section 1603-A.

“Interscholastic athletics.” All athletic contests or competitions conducted between or among school entities situated in counties of the second class, second class A, third class, fourth class, fifth class, sixth class, seventh class and eighth class.

“Nonpublic school.” A school, other than a public school within this Commonwealth, wherein a resident of this Commonwealth may legally fulfill the compulsory school attendance requirements of this act and Title VI of the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241).

“School entity.” A public school, school district, nonpublic school or private school in this Commonwealth other than a private or nonpublic school which elects not to become a member of the association.

Section 1603-A. Pennsylvania Athletic Oversight Council.—(a) The Pennsylvania Athletic Oversight Council is established.

(b) The council shall have seventeen voting members, appointed as follows:

(1) Two members of the Senate, of which one shall be appointed by the President pro tempore of the Senate and one shall be appointed by the Minority Leader of the Senate. To the greatest extent possible, appointees should have some experience in interscholastic athletics or shall be parents of students involved in interscholastic athletics.

(2) Two members of the House of Representatives, of which one shall be appointed by the Speaker of the House of Representatives and one shall be appointed by the Minority Leader of the House of Representatives. To the greatest extent possible, appointees should have some experience in interscholastic athletics or shall be parents of students involved in interscholastic athletics.

(3) The Secretary of Education or a designee.

(4) Twelve members shall be appointed as follows:

(i) The following organizations shall each submit three nominations to the Governor, who shall then select two of the names submitted from each of the organizations to serve on the council. To the greatest extent possible, these appointments shall be representative of all of the Pennsylvania Interscholastic Athletic Association’s athletic districts:

(A) The Pennsylvania Association of Secondary School Principals.

(B) The Pennsylvania Association of School Administrators.

(C) The Pennsylvania School Boards Association.

(D) The Pennsylvania State Athletic Directors Association.

(ii) The following organizations shall each submit two nominations to the Governor, who shall then select one of the names submitted from each of the organizations to serve on the council. To the greatest extent possible, these appointments shall be representative of all of the Pennsylvania Interscholastic Athletic Association’s athletic districts:

(A) The Pennsylvania Congress of Parents and Teachers.

(B) The Pennsylvania Coaches Association.

(C) The Officials Council.

(iii) *One member, as selected by the Governor, representing those nonpublic schools that are members of the association.*

(5) *At least one member appointed under paragraph (4) must be associated with women's athletics, including a coach of a women's athletics team or the parent of a participant in women's athletics.*

(c) *Terms are as follows:*

(1) *Members appointed by the Governor shall serve for the duration of the existence of the council.*

(2) *Legislative members appointed by the Senate and the House of Representatives shall serve at the pleasure of the appointing authority.*

(d) *Vacancies occurring on the council by death, resignation, removal or any other reason shall be filled within thirty (30) days of the creation of the vacancy in the manner in which that position was originally filled. An individual appointed to fill a vacancy shall be appointed for the unexpired term of the member he succeeds.*

(e) *The members of the council shall receive no actual compensation for their services. However, all expenses reasonably necessary for the members of the council to perform their duties shall be paid by the Department of Education.*

(f) *The duties and responsibilities of the council shall be as follows:*

(1) *To meet no less than four times a year at the call of the chair. All such meetings shall be conducted in accordance with the requirements of 65 Pa.C.S. Ch. 7 (relating to open meetings).*

(2) *To make recommendations concerning changes to the administration of interscholastic athletics to the association. The council shall make recommendations on issues, including, but not limited to:*

(i) *Appeals.*

(ii) *Athletic eligibility.*

(iii) *Transfers of students.*

(3) *To review and monitor the efforts of the association to meet the criteria listed in section 1604-A(a) and (b).*

(4) *To hold public hearings, subject to the requirements of 65 Pa.C.S. Ch. 7, on any issue concerning interscholastic athletics. These issues shall include, but not be limited to:*

(i) *Appeals.*

(ii) *Athletic eligibility.*

(iii) *Transfers of students.*

(5) *To have access to all books, papers, documents and records of the association in order to complete the annual report required under clause (6).*

(6) *To issue an annual report to the chairman and minority chairman of the Education Committee of the Senate, the chairman and minority chairman of the Education Committee of the House of Representatives and the president of the association summarizing:*

(i) *The council's meetings, public hearings and other action taken by the council.*

(ii) *The recommendations of the council made during the year and the association's response to each recommendation.*

(iii) *The efforts of the association to meet the criteria listed in section 1604-A(a) and (b).*

(7) *To issue a final report two (2) years after the Governor has made the final appointments to the council to the chairman and minority chairman of the Education Committee of the Senate and the chairman and minority chairman of the Education Committee of the House of Representatives and the president of the association summarizing all of the council's actions and recommendations over the previous two (2) years and the association's response to each.*

(8) *To elect a chairman and a vice chairman.*

(9) *To, at the council's discretion, request the committee to perform an audit on any phase of the association's compliance with the criteria listed in section 1604-A(a) or (b), as necessary for the purposes of completing its annual or final report.*

(g) *Expiration of council is as follows:*

(1) *If, by a majority vote, the council finds that the association has met the criteria listed in section 1604-A(a) and (b) to its satisfaction, the association shall continue to oversee the operation of interscholastic athletics in this Commonwealth, and the council shall expire. The council shall publish a notice of its expiration in the Pennsylvania Bulletin.*

(2) *If, by a majority vote, the council finds that the association has failed to meet the criteria listed in section 1604-A(a) and (b) to its satisfaction, the council shall, within one (1) year of its finding, submit a proposal for the selection of a new entity to oversee the operation of interscholastic athletics in this Commonwealth to the chairman and minority chairman of the Education Committee of the Senate and the chairman and the minority chairman of the Education Committee of the House of Representatives. Upon submission of the proposal, the council shall expire, and the council shall publish a notice of its expiration in the Pennsylvania Bulletin. The association shall be allowed to continue to oversee the operation of interscholastic athletics in this Commonwealth only until such time as a new entity is authorized to do so.*

(h) *Staff.—The Pennsylvania Department of Education shall provide support staff as needed to the council.*

Section 1604-A. Council Recommendations and Standards.—*(a) The association shall take all steps necessary to comply with the recommendations of the council, including recommendations concerning appeals, athletic eligibility and transfers of students.*

(b) The association shall take all steps necessary to comply with the following standards:

(1) Adopt and adhere to policies governing the conduct of open meetings that conform with the requirements of 65 Pa.C.S. Ch. 7 (relating to open meetings).

(2) Adopt and adhere to a policy establishing a competitive bidding process for the purchase of nonincidental merchandise and services that conforms with the requirements of this act.

(3) Adopt and adhere to a policy establishing a competitive process for the selection of sites for championship competitions.

(4) Agree to an annual financial and management review conducted by the committee.

(i) Such reviews shall indicate whether the association has:

(A) conformed with accepted accounting practices;

(B) conformed with all Federal and State statutes governing the administration of nonprofit organizations;

(C) conformed with accepted administrative and management practices; and

(D) contracted with employes who have fulfilled the duties for which they were contracted and act in the best interests of interscholastic athletics.

(ii) The committee shall report its findings from this review to the council, which shall make any appropriate recommendations to the association.

(5) Ensure that the membership of its board of directors includes the following who shall be full, voting members:

(i) One member representing school boards of directors who is an elected member of a school board of directors at the time of appointment.

(ii) One member representing athletic directors who is employed as an athletic director at the time of appointment.

(iii) One member representing coaches who is employed as a coach at the time of appointment.

(iv) One member representing officials who is an active official at the time of appointment.

(v) One member representing the Department of Education.

(vi) One member representing school administrators who is employed as a school administrator at the time of appointment.

(vii) One member representing women's athletics.

(viii) One member representing nonpublic schools.

(ix) Two members representing parents.

(6) Not require any member school entity to reimburse the association for legal fees and expenses incurred by the association or any of its personnel in defending a legal action authorized by a member school entity and brought against the association or any of its personnel and take action to repeal any present rule or policy authorizing such reimbursement prior to the final report of the council.

(7) *Adopt an evaluation system for game officials at district, interdistrict and championship competitions and utilize that evaluation system in the selection of individuals to officiate those contests.*

(8) *Adopt and adhere to a policy prohibiting conflicts of interest and setting forth rules of ethics to be followed by association board members and employes.*

(9) *Employ in-house counsel.*

(10) *Evaluate the performance of its contracted employes to determine whether they have complied with the provisions of their contracts and to determine whether termination is appropriate for any association employes who have violated the provisions of their contracts.*

(11) *Adopt no rules restricting media access to interscholastic athletic competitions or restricting the substance of any commentary offered by media reporting of interscholastic athletic competitions.*

(12) *Adopt rules intended to discourage its member school entities from recruiting student athletes, provided that:*

(i) *Such rules and any penalties levied for their breach shall be directed at the association's member schools and not at individual student athletes who may have been the subject of recruiting.*

(ii) *Any and all procedures established to gather evidence related to the enforcement of such rules shall place the burden of proof of the breach of such rules on the association and shall afford any member school entity due process rights in defending itself against the allegations, including a right to a hearing on the charges before the imposition of penalties.*

(iii) *The association is specifically prohibited from identifying individual student athletes as subjects or targets of such procedures.*

(13) *Establish a policy, including a mechanism for enforcement, requiring that persons involved in interscholastic athletics be provided equality of opportunity and treatment without regard to race, sex, religion, national origin or ethnic background.*

Section 6. Section 1726-A of the act, amended June 26, 1999 (P.L.394, No.36), is amended to read:

Section 1726-A. Transportation.—(a) Students who reside in the school district in which the charter school is located or who are residents of a school district which is part of a regional charter school shall be provided transportation to the charter school on the same terms and conditions as transportation is provided to students attending the schools of the district. School districts of the first class shall also provide transportation to the students if they are the same age or are enrolled in the same grade, grades or their grade equivalents as any students of the district for whom transportation is provided under any program or policy to the schools of the district. *Such transportation shall be provided to charter school students each school day whether or not transportation is provided during the same school day to students attending schools of the district.* Nonresident

students shall be provided transportation under section 1361. Districts providing transportation to a charter school outside the district shall be eligible for payments under section 2509.3 for each public school student transported.

(b) In the event that the Secretary of Education determines that a school district of the first class is not providing the required transportation to students to the charter school, the Department of Education shall pay directly to the charter school funds for costs incurred in the transportation of its students. Payments to a charter school shall be determined in the following manner: for each eligible student transported, the charter school shall receive a payment equal to the total expenditures for transportation of the school district divided by the total number of school students transported by the school district under any program or policy.

(c) The department shall deduct the amount paid to the charter school under subsection (b) from any and all payments made to the district.

(d) A school district of the first class shall submit a copy of its current transportation policy to the department no later than August 1 of each year.

Section 7. Section 1702-B of the act is amended by adding a definition to read:

Section 1702-B. Definitions.—For purposes of this article, the following terms shall have the following meanings:

* * *

“History of extraordinarily low test performance.” A combined average of sixty per centum (60%) or more of students scoring in the bottom measured group of twenty-five per centum (25%) or below basic level of performance on the Pennsylvania System of School Assessment tests under 22 Pa. Code Ch. 4 (relating to academic standards and assessment) in math and reading in the most recent two school years for which scores are available.

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Section 8. Sections 1703-B(a), 1705-B and 1706-B(a) of the act, added May 10, 2000 (P.L.44, No.16), are amended to read:

Section 1703-B. Education Empowerment List.—(a) The department shall place a school district that has a history of low test performance on an education empowerment list. The department shall immediately notify the school district of its placement on the education empowerment list and shall publish the list in the Pennsylvania Bulletin. A school district may petition the department to exclude from its calculation under this subsection *or section 1707-B(a.1)* the PSSA test score of any student who was enrolled in the district for less than ninety (90) instructional days of the school year in which the test was administered.

* * *

Section 1705-B. Education Empowerment Districts.—(a) Except as provided in subsection (h), a school district on the education empowerment list that does not meet the goals for improving educational performance set

forth in the school district improvement plan and maintains a history of low test performance at the end of the third school year following the date of its placement on the list shall be certified by the department as an education empowerment district, and a board of control shall be established. The department may allow the school district to remain on the education empowerment list for an additional school year prior to certifying the school district as an education empowerment district if the department determines that the additional year will enable the school district to improve test performance and meet other goals set forth in the school district improvement plan.

(b) The board of control shall be comprised of three members as follows:

(1) the secretary, who shall serve as chairman, or a designee; and

(2) two members who are residents of a county in which the school district is located and who shall be appointed by the secretary within fourteen (14) days of the school district's certification as an education empowerment district.

(c) No person who is an officer, board member or employe of the school district shall be appointed to the board of control.

(d) Members of the board of control who are not employes of the Commonwealth or a political subdivision shall receive compensation under section 692.2.

(e) Vacancies on the board of control shall be filled in the same manner as the original appointment.

(f) Members of the board of control shall serve at the pleasure of the secretary.

(g) Actions of the board of control shall be by a majority vote. A majority of the members appointed shall constitute a quorum.

(h) (1) A board of control established under section 692 shall be abolished upon certification of the school district as an education empowerment district. The school district shall be operated by a board of control established under subsection (a). The secretary may appoint the same individuals serving on the board of control under section 692 to the board of control under subsection (b).

(2) Sections 691 and 692 shall not apply to a school district certified as an education empowerment district.

(3) For a school district with a history of low test performance that is certified as distressed for a minimum period of two (2) years under sections 691 and 692 [on the effective date of this article], the department shall waive the inclusion of the school district on the education empowerment list under section 1703-B(a) and immediately certify the school district as an education empowerment district.

Section 1706-B. Powers and Duties of Board of Control.—(a) Except for the power to levy taxes, the board of control may exercise all other powers and duties conferred by law on the board of school directors *and the powers and duties conferred by law on a special board of control under*

sections 693, 694 and 695. In addition to the powers set forth in section 1704-B(a), the board of control shall have the power to close a district school.

* * *

Section 9. Sections 1707-B and 1708-B(b) of the act, added May 10, 2000 (P.L.44, No.16), are amended to read:

Section 1707-B. Boards of Control for Certain School Districts.—(a) ***The General Assembly finds and declares as follows:***

(1) In addition to the operation of failing school districts by a state, other jurisdictions across the nation are utilizing other models to reform failing urban school districts in which the chief executive of the city government is empowered to control the governance of the public schools serving the city. For example, Chicago has implemented a reform model operated by the mayor.

(2) In this Commonwealth, the Mayor of the City of Philadelphia, a city of the first class coterminous with a school district of the first class, recently was empowered by amendments to the home rule charter immediately to appoint all members of the Board of Education of the School District of Philadelphia to serve at his pleasure. In no other school district of the Commonwealth is the mayor or chief executive of a municipality empowered to control or affect the governance of school districts. Under the home rule charter amendments, the Mayor of Philadelphia will have significant input into the development and implementation of any school district improvement plan adopted under section 1703-B and the school district generally.

(3) In order to assess the effectiveness of a mayor-led system of school governance in other large city school districts in this Commonwealth which have a history of extraordinarily low test performance, a pilot program under this section shall be established for certain school districts of the second class coterminous with cities that have opted under the act of July 15, 1957 (P.L.901, No.399), known as the "Optional Third Class City Charter Law," or 53 Pa.C.S. Pt. III Subpt. E (relating to home rule and optional plan government) to be governed by a mayor-council form of government.

(a.1) For a school district of the second class [with] which has a history of extraordinarily low test performance, which is coterminous with [the] a city of the third class [which contains the permanent seat of government of this Commonwealth] that has opted under the "Optional Third Class City Charter Law" or 53 Pa.C.S. Pt. III Subpt. E to be governed by a mayor-council form of government and which has a population in excess of forty-five thousand (45,000), the secretary shall waive the inclusion of the school district on the education empowerment list under section 1703-B(a) and immediately certify the school district as an education empowerment district. No school district shall be certified under this section later than December 31, 2005.

(b) A board of control in an education empowerment district certified under [subsection (a)] *this section* shall consist of five (5) residents of the school district who shall be appointed by the mayor of the coterminous city within fourteen (14) days of the certification of the school district as an education empowerment district. Members of the board of control shall serve at the pleasure of the mayor.

(c) The authority granted to a board of school directors under section 1704-B(a) shall be exercised by the board of control of an education empowerment district certified under [subsection (a)] *this section*. The provisions of sections 1705-B(c), (d), (e) and (g), *1706-B* and 1708-B(a) shall be applicable to a board of control appointed under subsection (b). *The provisions of sections 693, 694 and 695 relating to special boards of control shall apply to a board of control under this section.*

(d) Within thirty (30) days of the certification of an education empowerment district under [subsection (a)] *this section*, the mayor shall appoint a school district empowerment team under section 1703-B(d)(2) to develop a school district improvement plan under section 1703-B(e). The mayor or [his] a designee shall serve as chairman of the school district empowerment team.

(e) The school district improvement plan under subsection (d) shall be transmitted by the board of control to the department within one hundred twenty (120) days of the appointment of the school district empowerment team. The department shall return the school district improvement plan to the board of control with its approval or any request for modifications within thirty (30) days following its submission. Any further modifications made by the school district empowerment team shall be transmitted to the department by the board of control.

(f) When a school district certified as an education empowerment district under [subsection (a)] *this section* no longer has a history of low test performance and has reached the goals set forth in the school district improvement plan, the department shall remove the certification as an education empowerment district as provided under section 1710-B, except that no certification removal *of a school district initially certified under subsection (a.1)*¹ shall be made for a period of at least five (5) years.

(g) *A school district certified as an empowerment district under this section shall not have its certification removed as a result of the reports of the Bureau of the Census or any change in classification of municipalities or school districts.*

Section 1708-B. Charter Schools.—* * *

(b) Charter schools approved pursuant to this section shall not be subject to sections 1717-A(b), (c), (d), (e), (f) [and], (g), (h) and (i) and 1722-A(c).

* * *

¹"(a)" in enrolled bill.

Section 10. This act shall take effect as follows:

- (1) The amendment or addition of sections 1205.4 and 1549 of the act shall take effect in 60 days.
- (2) The addition of section 1604-A of the act shall take effect in 90 days.
- (3) The remainder of this act shall take effect immediately.

APPROVED—The 22nd day of November, A.D. 2000.

THOMAS J. RIDGE