

No. 1984-93

AN ACT

HB 690

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 certain construction and repairs and the letting of certain contracts; further providing for contracts with certain private institutions; providing for the interpretation and construction of certain collective bargaining agreements; providing a compensation plan for school administrators; further providing for the assignment of pupils to schools; providing for remedial education programs; further defining "Factor for Educational Expense"; further providing for payments on account of instruction; limiting certain payments; and making editorial changes.

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

Section 1. Section 511(e) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, amended April 14, 1949 (P.L.460, No.85), is amended to read:

Section 511. School Athletics, Publications, and Organizations.—

* * *

(e) All purchases of materials or supplies made by any organization, club, society, or group, or by any school or class, in excess of **[three hundred one thousand]** dollars, shall be made upon solicitation of quotations or bids from three or more responsible manufacturers of or dealers in such materials or supplies. All such purchases shall be made from the lowest responsible bidder on the basis of price, quality and service.

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Section 2. Section 751(b) of the act, amended February 4, 1982 (P.L.1, No.1), is amended to read:

Section 751. Work to be Done Under Contract Let on Bids; Exception.—* * *

(b) The board of school directors in any school district **[either]** may perform any construction, reconstruction, repairs, or work of any nature, where the entire cost or value, including labor and material, is less than five thousand dollars (\$5000), by its own maintenance personnel, **[or]** . **The board** may have any such construction, reconstruction, repairs, or work **up to ten thousand dollars (\$10,000)** performed by contract after soliciting bids from **at least three** responsible bidders: Provided, That the board of school directors in any school district may authorize the secretary of the board or other executive to award contracts for construction, reconstruction, repairs, or work of any nature, where the entire cost or value, including labor and material, is four thousand dollars (\$4,000) or less, without soliciting competitive bids.

* * *

Section 3. Section 914.1-A(c) of the act, amended December 17, 1982 (P.L.1378, No.316), is amended to read:

Section 914.1-A. Contracts with Private Residential Rehabilitative Institutions.—***

(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] *in excess of* 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 *during any one school year*. However, nothing in this section shall be construed to alter or limit the educational rights of exceptional children.

* * *

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

Section 1133. Collective Bargaining for Public Employees.—Nothing contained in sections 1121 through 1132 shall be construed to supersede or preempt a provision of a collective bargaining agreement in effect on July 23, 1970, or on any date subsequent thereto, negotiated by a school entity and an exclusive representative of the employes in accordance with the act of July 23, 1970 (P.L.563, No.195), known as the "Public Employe Relations Act," which agreement provides for the right of the exclusive representative to grieve and arbitrate the validity of a professional employe's termination for just cause or for the causes set forth in section 1122 of this act; however, no agreement shall prohibit the right of a professional employe from exercising his or her rights under the provisions of this act except as herein provided. However, if within ten (10) days after the receipt of the detailed written statement and notice as required by section 1127, the professional employe chooses to exercise his or her right to a hearing, any provision of the collective bargaining agreement relative to the right of the exclusive representative to grieve or arbitrate the termination of such professional employe shall be

void. Professional employes shall have the right to file a grievance under the collective bargaining agreement or request a hearing pursuant to sections 1121 through 1132, but not both.

Section 1164. Compensation Plans for School Administrators.—
(a) As used in this section, the following words will have the following meanings:

“Administrative compensation” shall mean administrator salaries and fringe benefits and shall include any board decision that directly affects administrator compensation such as administrative evaluation and early retirement programs.

“School administrator” shall mean any employe of the school entity below the rank of district superintendent, executive director, director of vocational-technical school, assistant district superintendent or assistant executive director, but including the rank of first level supervisor, who by virtue of assigned duties is not in a bargaining unit of public employes as created under the act of July 23, 1970 (P.L.563, No.195), known as the “Public Employe Relations Act.” However, this definition shall not apply to anyone who has the duties and responsibilities of the position of business manager or personnel director, but not to include principals.

“School employer” shall mean a board of school directors, the area vocational-technical school board of directors or the intermediate unit board of school directors as defined in this act.

(b) The purpose of this section is to provide a means by which compensation matters affecting school administrators can be resolved within the framework of a management team philosophy.

(c) School employers, upon the written request of a majority of the school administrators in the district, shall be required to meet and discuss in good faith with the school administrators on administrator compensation prior to adoption of the compensation plan.

(d) School employers shall be required to adopt written administrator compensation plans which shall apply to all eligible school administrators, as provided in this section, and which shall continue in effect until a time specified in the compensation plan, but in no event for less than one school year.

(e) An administrator compensation plan adopted pursuant to this section shall include, but not be limited to, the following items:

- (1) A description of the program determining administrative salaries.*
- (2) Salary amounts or a salary schedule.*
- (3) A listing of fringe benefits.*

(f) School employers and school administrators shall continue to be subject to the act of June 30, 1947 (P.L.1183, No.492), referred to as the Public Employe Anti-Strike Law.

Section 5. Section 1310(d) of the act, amended December 17, 1982 (P.L.1378, No.316), is amended to read:

Section 1310. Assignment of Pupils to Schools.—* * *

(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] in excess of** 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 *during any one school year*.

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

Section 1511.1. Remedial Programs.—(a) Approved programs in reading and in mathematics shall be established by each school district for its public school students and by each intermediate unit for nonpublic school students to serve those students identified as requiring assistance as a result of falling below an acceptable level of performance on tests developed and administered pursuant to regulations adopted by the State Board of Education. Annually, each school district and intermediate unit shall submit an application to the department for approval of a program of remediation services to be funded through funds distributed pursuant to subsection (b). Upon approval of the program, each school district and intermediate unit shall be eligible for State funds made available for such programs, as provided in subsection (b).

(b) Funds appropriated for remediation services and not distributed through sections 2501(19), 2502(d) and 2502.5 shall be distributed by the Department of Education to school districts based on the number of public school students identified for remediation and to intermediate units on behalf of nonpublic school students for remediation. Funds distributed to intermediate units shall be for services that are in addition to any services provided in accordance with the provisions of section 922.1 and such funds shall be in addition to those distributed in accordance with the provisions of section 922.1(d).

(c) It is the intent of the General Assembly that school districts utilize revenue for similar programs from the Federal Government to supplement State funds provided for in this act. Further, the General Assembly directs the department to guarantee, in its distribution of funds authorized by this act, that the combined resources of State and Federal programs exceed the resources which would be available from State sources if Federal revenues for similar purposes were not available.

Section 7. Section 2501(19) of the act, added December 20, 1983 (P.L.267, No.73), is amended to read:

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

* * *

(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. *For the school year 1983-1984 and each school year thereafter, the Factor for Educational Expense shall be one thousand seven hundred twenty-five dollars (\$1,725), unless later changed by statute, for those school districts participating, during the 1984-1985 school year and each school year thereafter, in a Statewide program for testing and remediation which is designed to identify and provide remediation services to individual students pursuant to section 1511.1.*

Section 8. Sections 2502(d) and 2502.5 of the act, amended December 20, 1983 (P.L.267, No.73), are amended to read:

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

(d) For the school year 1976 and 1977 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. *For the 1983-1984 school year and each school year thereafter, each school district participating, during the 1984-1985 school year and each school year thereafter, in a Statewide program for testing and remediation which is designed to identify and provide remediation services to individual students pursuant to section 1511.1, 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 seven hundred twenty-five dollars (\$1,725), and by the weighted average daily membership of the district. This subsidy may be used for strengthening curriculum, increasing standards, improving student achievement and providing remedial programs.*

* * *

Section 2502.5. Limitation of Certain Payments.—

(a) Notwithstanding any other provision of law, for the school year 1970-1971 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 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.

(c) *For the 1983-1984 school year and each school year thereafter, all school districts qualifying for payments under subsections (d) and (e) of section 2502 and section 2502.11 and which are not providing appropriate remedial programs as defined in section 1511.1 shall be limited to an increase payment on account of those sections which shall not exceed seven and forty-five one hundredths percent (7.45%) over the sums received on account of those sections for the 1982-1983 school year, nor shall any such school district receive an increase of less than two percent (2%) of the equalized subsidy for basic education payments received for the 1982-1983 school year.*

(d) *For the 1983-1984 school year and each school year thereafter, all school districts qualifying for payments under subsections (d) and (e) of section 2502 and section 2502.11 and which are providing appropriate remedial programs as defined in section 1511.1, during the 1984-1985 school year and each school year thereafter, shall be limited to an increase payment on account of those sections which shall not exceed eight percent (8%) over the sums received on account of those sections for the 1982-1983 school year, nor shall any such school district receive an increase of less than three percent (3%) of the equalized subsidy for basic education payments received for the 1982-1983 school year.*

(e) *For the school year 1983-1984 and each school year thereafter, no school district shall be paid under subsections (d) and (e) of section 2502 and under section 2502.11 less than eighty percent (80%) of the total amount to which it is entitled under said sections, notwithstanding any limitations on increases in such payments enacted by the General Assembly to the contrary. For the school year 1983-1984, payments under this subsection shall be computed using a Factor for Educational Expense of one thousand six hundred fifty-six dollars (\$1,656) and a maximum payment increase of seven and forty-five one hundredths percent (7.45%) and a minimum payment increase of two percent (2%). No school district shall, as a result of this subsection, be paid an amount in excess of one hundred percent (100%) of the total reimbursable instructional expenditures of the school district.*

Section 9. Section 2502.11(c) of the act, added December 20, 1983 (P.L.267, No.73), is amended to read:

Section 2502.11. Economic Supplement.—* * *

(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:

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

Notwithstanding the provisions of this **[table, qualifying] subsection**, 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 10. (a) Section 4 of this act, insofar as it relates to section 1133, shall be retroactive to January 1, 1983.

(b) Sections 3 and 5 of this act relating to sections 914.1-A and 1310(d) shall be retroactive to July 1, 1983.

Section 11. (a) Section 4 of this act, insofar as it relates to section 1164, shall take effect in 150 days.

(b) The remainder of this act shall take effect immediately.

APPROVED—The 29th day of June, A. D. 1984.

DICK THORNBURGH