

No. 1988-43

AN ACT

HB 1735

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," changing the date for plan submission on continuing professional development; reestablishing the State Board of Education; further providing for its membership, powers and duties; further providing for the State School Fund; and making repeals.

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

Section 1. Section 1205.1(a) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, added December 15, 1986 (P.L.1602, No.178), is amended to read:

Section 1205.1. Continuing Professional Development.—(a) **[During the 1986-1987 school year,] By January 1, 1989**, every school district, joint school district, intermediate unit and area vocational-technical school shall submit to the Secretary of Education for approval a *continuing professional development plan*, developed pursuant to the provisions of subsection (b) and including, at a minimum, the elements provided for in subsection (c). The secretary shall determine approximately one-third of the school districts, joint school districts, intermediate units and area vocational-technical schools which shall submit two-year plans, one-third which shall submit three-year plans and one-third which shall submit four-year plans **[during the 1986-1987 school year] by January 1, 1989**. Thereafter, upon the expiration of the existing professional development plan, each school district, joint school district, intermediate unit and area vocational-technical school shall submit to the secretary for approval a two-year professional development plan.

* * *

Section 2. Section 2601 of the act is repealed.

Section 3. Section 2604 of the act, amended October 21, 1965 (P.L.601, No.312), is amended to read:

Section 2604. Use of Fund Appropriation.—In addition to equalizing educational opportunities throughout the Commonwealth, the State Board of Education may expend moneys from the State School Fund of Pennsylvania for the **[purpose of paying a part of the costs of repairs and/or alterations to local public school buildings or buildings used by State colleges, which repairs and/or alterations are necessary to satisfy fire and safety standards or requirements and which are required by order of the Department of Labor and Industry, or in those cases in which the Department of Labor and Industry does not have jurisdiction, then by order of another governmental body of competent jurisdiction empowered by law to enforce such orders,**

including cities of the first class, cities of the second class, and cities of the second class A.

As much of the moneys in the State Fund of Pennsylvania, including principal and income, as may be necessary, is specifically appropriated to the State Board of Education to be used for the purposes and in the manner prescribed in this act.] *purposes of contractual research projects and any other activities approved by the State Board of Education and deemed necessary for its compliance with this article. Payments shall be made by the State Treasurer on order of the State Board of Education, signed by the chairman of the board. As much of the money in the State School Fund of Pennsylvania, including principal and income, as may be necessary, is specifically appropriated to the State Board of Education to be used for the purposes and in the manner prescribed in this article.*

Section 4. Sections 2605 and 2607 of the act are repealed.

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

ARTICLE XXVI-B.
THE STATE BOARD OF EDUCATION.

Section 2601-B. Definitions.—When used in this article the following words and phrases shall have the following meanings:

(1) *“Board” shall mean the State Board of Education.*

(2) *“State Board of Education” shall mean the entity known as the State Board of Education and placed within, and made a departmental administrative board of, the Department of Education by section 202 of the act of April 9, 1929 (P.L.177, No.175), known as “The Administrative Code of 1929.”*

Section 2602-B. Membership.—(a) The board shall consist of twenty-one (21) members, ten (10) of whom shall also serve as members of the Council of Basic Education, and ten (10) of whom shall also serve as members of the Council of Higher Education. The member designated by the Governor as chairman of the board shall also service as a member of the Council of Basic Education and of the Council of Higher Education. Except the legislative members, each member shall be appointed by the Governor, by and with the advice and consent of a majority of all the members of the Senate, and shall, except as hereinafter provided, hold office for terms of six (6) years each or until his successor has been appointed and has qualified. An appointment to fill a vacancy shall be for the unexpired term or until his successor has been appointed and has qualified. The chairmen and minority chairmen of the House of Representatives and Senate Education Committees, or their respective designees from such committees, shall serve as ex officio members of the board with full voting privileges and shall serve as members for as long as they hold their respective positions. The Chairman of the Professional Standards and Practices Commission, or a commission member designated by the chairman, created by the act of December 12, 1973 (P.L.397, No.141), referred to as the Teacher Certification Law, shall be an ex officio member of the board without voting privileges or assignment to either council. Members shall receive no salary but shall be entitled to travel expenses and other necessary expenses incurred in the performance of their duties as members of the board.

(b) *Eleven (11) members shall constitute a quorum provided that at least five (5) members serving on each of the councils are present. The affirmative vote of a majority of all the members of the board duly recorded showing how each member voted shall be required in order to take action adopting statements of policy, standards, rules and regulations. The board shall meet at least six (6) times a year at such times and places as it shall determine. Special meetings may be called by the chairman or at the request of a majority of the members of the board.*

(c) *An appointed member who fails to attend three (3) consecutive board meetings shall forfeit his or her membership on the board, unless the board chairman, upon written request from the member, determines that the member should be excused from a meeting or meetings for reasons of illness or the death of an immediate family member.*

(d) (1) *The Governor shall designate, to serve at his pleasure, a member as chairman of the board.*

(2) *The chairman of the board, or a member of the board designated by the chairman, shall be an ex officio member of the Professional Standards and Practices Commission, without voting privileges.*

(e) *For the purpose of formulating policy proposals applicable to elementary, secondary, vocational-technical education and higher education in this Commonwealth, there shall be two councils, which shall consist of ten (10) members of the board each, the chairman being a member of both councils, and shall be known as the Council of Basic Education and the Council of Higher Education. The Governor shall designate to serve at his pleasure a member serving on each council to act as chairman of the council. Each council shall meet at the call of its chairman or at the request of a majority of the members of the council. The chairman of the board may appoint special joint committees from among the members of the board to formulate policy proposals in those areas which fall within the purview of both of the councils.*

(f) *Except for the chairman, not more than two (2) members serving on each council shall be employed either in a school system or in the Department of Education. For purposes of this subsection, the State System of Higher Education shall not be considered a school system. Three (3) members of the Council of Higher Education shall be actively employed by an institution of higher education, at least one holding an administrative position and at least one holding a professional position on a faculty of an institution of higher education. At least two (2) members serving on each council shall have had previous experience with vocational-technical education or training.*

(g) *The Secretary of Education, or his designated representative, shall be the chief executive officer of the board, shall be entitled to attend all meetings of the board and councils, and shall have the right to speak on all matters before the board and the councils but not to vote.*

Section 2603-B. Powers and Duties of the Board.—(a) The board shall have the power, and its duty shall be, to review the statements of policy, standards, rules and regulations formulated by the Council of Basic Education and the Council of Higher Education, and adopt broad policies and

principles, and establish standards governing the educational program of the Commonwealth.

(b) The board and the Secretary of Education shall jointly employ and fix the compensation of such staff as it deems necessary to perform the duties of the board. The board shall be entitled to legal counsel which shall be designated by the Office of General Counsel, which legal counsel shall not also be legal counsel to the Department of Education.

(c) The board shall develop an annual operating budget, including projected operating expenses of the Professional Standards and Practices Commission. It shall include salaries for staff, office materials and equipment, and all expenses for the operation of the board and commission. This budget shall be presented to the Secretary of Education. Upon adoption of the general appropriations act, the department shall notify the board of the amount of its allocation.

(d) The board shall also have the authority and duty to:

(1) approve or disapprove an application for the creation of a new school district, or change in the boundaries of an existing school district;

(2) establish, whenever deemed advisable, committees of professional and technical advisors to assist the councils in performing research studies undertaken by them;

(3) manage and have custody of the State School Fund;

(4) (i) apply for, receive and administer, subject to any applicable regulations or laws of the Federal Government or any agency thereof, any Federal grants, appropriations, allocations and programs for the development of academic facilities on behalf of the Commonwealth, any of its school districts or any institution of higher education, public or private, within this Commonwealth;

(ii) subject to criteria developed by the Secretary of Education and subject to any applicable regulations or laws of the Federal Government or any agency thereof, to develop, alter, amend and submit to the Federal Government State plans for participation in Federal grants, appropriations, allocations and programs for the development of academic facilities and to make regulations, criteria, methods, forms, procedures and to do all other things which may be necessary to make possible the participation of the Commonwealth in such Federal grants, appropriations, allocations and programs for the development of academic facilities;

(iii) hold hearings, issue subpoenas and render decisions as to the priority assigned to any project, or as to any other matter or determination affecting any applicant for Federal grants, appropriations, allocations and programs for the development of academic facilities;

(iv) adopt rules or procedures and prescribe regulations for the submission to it of all matters within its jurisdiction; and

(v) submit, annually, to the Governor, on or before the first Monday of December, a report of its proceedings during that year, together with such recommendations as the board shall deem necessary;

(5) adopt policies under which the Secretary of Education shall approve or disapprove any action of a State-owned university, community college or

State-related or State-aided college or university in establishing additional branches or campuses, or in discontinuing branches or campuses;

(6) adopt policies under which the Secretary of Education shall approve or disapprove any action of a State-owned university, community college or State-related or State-aided college or university in establishing new professional schools or upper division programs by two (2) year institutions;

(7) adopt policies under which the Secretary of Education shall approve or disapprove applications by two (2) year institutions to become four (4) year institutions;

(8) adopt policies under which the Secretary of Education shall approve or disapprove the request of any private institution of higher education for admission to State-related or State-aided status, or for eligibility for other State financial support; and

(9) require the submission of long-range plans from all public and private institutions of higher education at the times and in the form requested by the board. Such documents shall be reviewed by the Council of Higher Education and the board in the development of a master plan for higher education as provided in subsection (h) and section 2604-B(c)(1).

(e) With regard to State-owned institutions, approval or disapproval by the Secretary of Education under the provisions of clauses (5) and (6) of subsection (d) shall not be made until after recommendation by the Board of Governors of the State System of Higher Education, whenever such recommendation is deemed necessary or required by law.

(f) No institution of higher education may proceed with any action unless it has been approved by the Secretary of Education under the provisions of clauses (5) through (8) of subsection (d).

(g) With regard to approval by the Secretary of Education under the provisions of clauses (5) through (8) of subsection (d), no action to be financed wholly or in part from State appropriations shall be taken by an institution of higher learning (i) prior to the next fiscal year or until the General Assembly approves the Governor's budget for the next fiscal year, and (ii) prior to the Governor and the Secretary of the Budget being provided with written notification of such approval, including projected five (5) year fiscal analysis and an explanation as to the necessity for the proposed action in relation to the master plan for higher education.

(h) Every five (5) years, the board shall adopt a master plan for higher education which shall be for the guidance of the Governor, the General Assembly, and all institutions of higher education financed wholly or in part from State appropriations. The master plan shall:

(1) define the role of each type of institution (State-owned universities, State-related universities, community colleges, private colleges and universities and off-campus centers of any of these and other institutions authorized to grant degrees) in this Commonwealth;

(2) recommend enrollment levels for each such institution;

(3) recommend methods for governance;

(4) recommend methods for the distribution of State funds among the institutions;

(5) *evaluate the status of physical plants and technical equipment and project needs;*

(6) *evaluate the status of and projection of manpower needs;*

(7) *evaluate enrollment accessibility to institutions of higher learning by the public; and*

(8) *otherwise provide for an orderly development of institutions of higher education in this Commonwealth.*

(i) *Every five (5) years, the board shall adopt a master plan for basic education which shall be for the guidance of the Governor, the General Assembly, and all public school entities. The master plan shall consider and make recommendations on the following areas, and any other areas which the board deems appropriate:*

(1) *school program approval, evaluation and requirements;*

(2) *school personnel training and certification;*

(3) *student testing and assessment;*

(4) *school governance and organization;*

(5) *curriculum materials development;*

(6) *school finance;*

(7) *school buildings and facilities;*

(8) *transportation;*

(9) *technical services and support services to local education agencies; and*

(10) *projected long-range needs of the public school system of this Commonwealth.*

(j) *The board shall request from and receive publicly at a scheduled meeting recommendations of the Professional Standards and Practices Commission pertaining to teacher certification, professional practices, accreditation of teacher-education programs and long-range plans affecting these subject areas. When such recommendations are received, the board shall consider and review these recommendations during the development of any statements of policy, guidelines, standards or rules and regulations as they relate to the above subject areas. If such recommendations are not received in a timely fashion, the board may continue to develop and adopt statements of policy, guidelines, standards or rules and regulations in these subject areas.*

(k) *The board shall make all reasonable rules and regulations necessary to effectuate the purposes of this article and carry out all duties placed upon it by law.*

Section 2604-B. Powers and Duties of Council of Basic Education and Council of Higher Education.—*(a) The board shall engage in a constant review and appraisal of education in this Commonwealth. The board's evaluation shall take into account such matters as educational objectives, alternative organizational patterns, alternative programs of study, and the operating efficiency of the educational system. The chairman of the board shall refer all studies and investigations to one of its councils as hereinafter provided, and shall receive and place on the board's agenda the findings and recommendations of the councils for appropriate action by the board.*

(b) The Council of Basic Education shall have the power, and its duty shall be to:

(1) develop a master plan for basic education in this Commonwealth, as provided by law, for adoption by the board;

(2) investigate programs, conduct research studies and formulate policy proposals in all educational areas not within the purview of higher education, including, but not limited to:

(i) the creation, merger, consolidation and reorganization of school districts, the establishment of joint schools, area vocational-technical schools and such other administrative organizations as may be provided by law;

(ii) the operation of small high schools, one-room schools, summer schools, extension education programs and such other special schools as may be provided by law;

(iii) the location, design, safety, health and educational features of public school buildings and equipment;

(iv) the transportation of public school pupils, vehicle characteristics and driver qualifications;

(v) admission, attendance, graduation and other separation requirements;

(vi) the education and training of exceptional children;

(vii) the subjects to be taught and the activities to be conducted in elementary, secondary, adult education and other schools; and

(viii) the qualifications for employment of professional personnel in the public schools;

(3) encourage and promote such agricultural, industrial, vocational and technical education programs as the needs of this Commonwealth may, from time to time, require; and

(4) investigate and, if deemed appropriate, make recommendations pertaining to the work of any schools of design, schools of industrial arts or industrial schools to which the General Assembly may make an appropriation.

(c) The Council of Higher Education shall have the power and its duty shall be to:

(1) develop a master plan for higher education in this Commonwealth, including a system of community colleges as provided by law, for adoption by the board;

(2) develop standards for the approval of colleges and universities for the granting of certificates and degrees;

(3) develop standards for all higher education building projects involving the use of State funds or the funds of any Commonwealth instrumentality; and

(4) investigate programs, conduct research studies and formulate policy proposals in all areas pertaining to higher education in this Commonwealth, including a system of community colleges and technical institutes as provided by law.

Section 2605-B. Reports and Recommendations.—(a) Annually in January, the board shall submit a comprehensive report of its activities to the

Governor and the General Assembly together with its recommendations for improvements in education in this Commonwealth. The board's report shall include a statement outlining the expected benefits and projected costs of any recommended course of action. The report shall also include information regarding the ongoing review of the Master Plan for Higher Education and the Master Plan for Basic Education and list any projected changes.

(b) As it deems appropriate and necessary, the board may make reports and requests to the General Assembly on such issues as, pending legislation, proposed legislation, educational policy, and any other programs or issues of which the board believes the General Assembly should be aware.

Section 2606-B. Cooperation Between the Board and the Department of Education.—Statements of policy, standards, rules and regulations promulgated by the board shall be binding upon the Department of Education. The department shall submit to the board for approval, modification or rejection, all rules and regulations proposed by the department in the areas under the control of the board. The Department of Education shall furnish upon request of the board such data and information as the board may, from time to time, require, and the department shall provide administrative services for and on behalf of the board for the implementation of the board's statements of policy, standards, rules and regulations.

Section 6. This act, with respect to the State Board of Education, shall constitute the legislation required to reestablish an agency pursuant to the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

Section 7. The presently confirmed members of the State Board of Education constituted under section 408.1 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, as of the effective date of this act, shall continue to serve as board members until their present terms of office expire and until their successors are appointed and qualified.

Section 8. Each rule and regulation of the board in effect on the effective date of this act shall remain in effect after such date until repealed or amended by the board.

Section 9. Sections 408.1, 1317, 1318, 1319 and 1320 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, are repealed.

Section 10. This act shall take effect immediately.

APPROVED—The 30th day of March, A. D. 1988.

ROBERT P. CASEY