

## PUBLIC SCHOOL CODE OF 1949 - OMNIBUS AMENDMENTS

Act of Jul. 12, 2012, P.L. 1142, No. 141

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No. 2012-141

HB 1307

## AN ACT

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," in duties and powers of boards of school directors, further providing for elementary schools; in school finances, further providing for when district distressed; repealing provisions relating to special board of control, petition and appointments, when no appointment is made and compensation of special board of control; further providing for powers of special board of control and for distress in school districts of the first class; repealing provisions relating to additional tax and to school directors to remain in office and elections; adding provisions relating to school district financial recovery; establishing the Financial Recovery School District Transitional Loan Account; in intermediate units, further providing for subsidies for services and for financial reports; further providing for manner of election or approval; providing for performance review; further providing for election of assistant district superintendents, for term and salary of assistants, for commissions and for removal; in high schools, further providing for attendance in other districts; providing for wearing of military uniform at graduation ceremony; and further providing for superintendents of schools or buildings and of supplies.

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

Section 1. Section 501 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, is amended to read:

Section 501. Elementary Schools.--(a) The board of school directors in every school district shall establish, equip, furnish, and maintain a sufficient number of elementary public schools, in compliance with the provisions of this act, to educate every person, residing in such district, between the ages of six and twenty-one years, who may attend.

(b) A board of school directors may satisfy the requirement set forth in subsection (a) by any of the following:

(1) Operating a school building.  
 (2) Converting a school building to a charter school pursuant to section 1717-A, provided that a school district in financial recovery status or in receivership under Article VI-A that seeks to convert a school building to a charter school shall comply with the provisions of section 642-A(2).

(3) Contracting with an education management service provider to operate a school building. For purposes of this paragraph, "education management service provider" shall mean a for-profit education management organization, nonprofit charter management organization, school design provider, business manager or any other partner entity with which a school district contracts to provide educational design, business services, comprehensive management or personnel functions. The term shall not include a charter school foundation.

(4) Paying tuition for students residing in the school district to attend school in another school district upon the agreement of both school districts.

Section 2. Section 691(a) of the act, amended April 27, 1998 (P.L.270, No.46), is amended to read:

Section 691. When District Distressed.--(a) [A] Except for a school district of the first class A, second class, third class or fourth class, a school district shall be deemed to be distressed

when any one of the following circumstances shall arise and the Secretary of Education, after proper investigation of the district's financial condition, the administrative practices of the board and such other matters deemed appropriate by the Secretary of Education, has issued a certificate declaring such district in financial distress:

- (1) The salaries of any teachers or other employes have remained unpaid for a period of ninety (90) days.
- (2) The tuition due another school district remains unpaid on and after January first of the year following the school year it was due and there is no dispute regarding the validity or amount of the claim.
- (3) Any amount due any joint board of school directors under a joint board agreement remains unpaid for a period of ninety (90) calendar days beyond the due date specified in the joint board's articles of agreement.
- (4) The school district has defaulted in payment of its bonds or interest on such bonds or in payment of rentals due any authority for a period of ninety (90) calendar days and no action has been initiated within that period of time to make payment.
- (5) The school district has contracted any loan not authorized by law.
- (6) The school district has accumulated and has operated with a deficit equal to two per centum (2%) or more of the assessed valuation of the taxable real estate within the district for two successive years.
- (7) A new, merged or union school district has been formed and one or more of the former school districts which compose the merged or union school district was a distressed school district at the time of the formation of the merged or union school district.

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Section 3. Section 692 of the act, amended December 9, 2002 (P.L.1472, No.187), is repealed:

[Section 692. Special Board of Control; Petition; Appointments.--Whenever on the basis of a proper investigation as herein provided for, the Secretary of Education has declared a school district of the first class A, second class, third class or fourth class to be a distressed school district under section 691(a), he or his designated representative who shall be a person trained in public school administration, possessing the certification prerequisites demanded of a district or assistant superintendent, or holding in the Department of Education the rank of Deputy Secretary, shall petition the court of common pleas of the county in which such district, or the largest part in area, is located to appoint two citizens who shall be qualified electors and taxpayers in the county in which the school district is located. School directors and employes of any such school district shall be ineligible for appointment by the court. The appointees, together with the designated representative of the Secretary of Education, shall constitute a special board of control and shall serve for terms of five years. No member of the board may be removed from office during a term, except that the Secretary of Education may upon clear and convincing evidence of malfeasance or misfeasance in office remove a member prior to the expiration of the term. Before a member of the board is removed, that member must be provided with a written statement of the reasons for removal and an opportunity for a hearing in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action). Vacancies occurring because of death, removal or resignation of members of the board shall be filled within thirty (30) days of the creation of the vacancy in the manner in which that position was originally filled. A member of the board shall hold office until a successor is appointed and qualified. The special board of control shall assume control of the affairs of the district and operate it in the place of the school directors during the period necessary to reestablish a sound financial structure in the district. The costs of the court proceedings shall be paid by the Department of Education.]

Section 4. Section 692.1 of the act, amended January 14, 1970 (1969 P.L.468, No.192), is repealed:

[Section 692.1. When No Appointment Is Made.--In the event that the court of common pleas has made no appointment of members

to a special board of control within thirty (30) days of the date of the filing of the petition for such appointment, the Superintendent of Public Instruction may designate the executive director of the intermediate unit and a member of the intermediate unit board of directors of the intermediate unit in which the petition is presented to serve until the court makes its appointments. A school director of the distressed school district serving on the intermediate board of directors shall be ineligible for appointment.]

Section 5. Section 692.2 of the act, amended June 30, 1995 (P.L.220, No.26), is repealed:

[Section 692.2. Compensation of Special Board of Control.--The members of the special board appointed by the court, or the member other than the executive director of the intermediate unit appointed on a temporary basis by the Superintendent of Public Instruction, shall be paid seventy-five dollars (\$75) for each meeting of the regular board of school directors of the distressed school district which they attend: Provided, however, That the total amount to be paid in any fiscal year to each such member shall not exceed nine hundred dollars (\$900). Such payments shall be made from the funds of the school district and shall be charged to administrative services even though no previous provision has been made in the budget of the school district for such expenses.]

Section 6. Section 693 of the act, added December 15, 1959 (P.L.1842, No.675), is amended to read:

Section 693. Powers of Special Board of Control.--[When] **(a) Except as otherwise provided in subsection (b), when** the special board of control assumes control of a distressed school district, it shall have power and is hereby authorized to exercise all the rights, powers, privileges, prerogatives and duties imposed or conferred by law on the board of school directors of the distressed district, and the board of school directors shall have no power to act without the approval of the special board of control. In addition thereto, the special board of control shall have power to require the board of directors within sixty (60) days to revise the district's budget for the purpose of effecting such economies as it deems necessary to improve the district's financial condition. To this end the special board of control may require the board:

(1) To cancel or to renegotiate any contract other than teachers' contracts to which the board or the school district is a party, if such cancellation or renegotiation of contract will effect needed economies in the operation of the district's schools.

(2) To increase tax levies in such amounts and at such times as is permitted by the act to which this is an amendment.

(3) To appoint a special collector of delinquent taxes for the district who need not be a resident of the school district. Such special tax collector shall exercise all the rights and perform all the duties imposed by law on tax collectors for school districts. The superseded tax collector shall not be entitled to any commissions on the taxes collected by the special collector of delinquent taxes.

(4) To direct the special school auditors of the department or to appoint a competent independent public accountant to audit the accounts of the distressed school districts.

(5) To dispense with the services of such nonprofessional employes as in his judgment are not actually needed for the economical operation of the school system.

(6) To suspend, in accordance with the provisions of section 1124 of the act to which this is an amendment, such number of professional and temporary professional employes as may be necessary to maintain a pupil-teacher ratio of not less than twenty-six pupils per teacher for the combined elementary and secondary school enrollments.

**(b) The provisions of subsection (a) shall not apply to a school district of the first class A, second class, third class or fourth class.**

Section 7. Section 694 of the act, added December 15, 1959 (P.L.1842, No.675), is repealed:

[Section 694. Additional Tax.--When the operation of a distressed school district has been assumed by the special board of control, the board of school directors of the district shall, upon the recommendation and with the approval of the special board

of control, levy an additional tax or taxes sufficient to liquidate the indebtedness of the district: Provided, That when such school directors fail to levy such additional taxes within a reasonable time, the special board of control may petition the court of common pleas of the county in which such district or the largest part in area is located to issue a writ of mandamus requiring the board to levy such additional tax or taxes, or he may, in his own name, initiate action to have the board removed from office for neglect of duty subject to the provisions of section 318 of this act. Notwithstanding present limitations on tax rates imposed by law, such limitations shall not apply to distressed school districts.]

Section 8. Section 695 of the act, amended July 31, 1963 (P.L.407, No.215), is repealed:

[Section 695. School Directors to Remain in Office; Elections.--The school directors of a distressed district may not resign their offices, except with the unanimous consent of the special board of control and shall continue in office, unless removed from office for neglect of duty under the provisions of section 318 of this act by the court of common pleas of the county in which such district or the largest part in area is located, or unless any of such directors are elected to another position not compatible with the position of school director or are appointed to any position for which there is a requirement that said appointee shall hold no elective office, for the remainder of their terms during the time the district is operated by the special board of control and shall perform any duties delegated to them by it. The assumption of control of a distressed school district by the special board of control shall in no way interfere with the regular election or reelection of school directors for the district.]

Section 9. Section 696(i)(3) of the act, amended October 30, 2001 (P.L.828, No.83), is amended to read:

Section 696. Distress in School Districts of the First Class.--  
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(i) In addition to all powers granted to the superintendent by law and a special board of control under section 693 and notwithstanding any other law to the contrary, the School Reform Commission shall have the following powers:  
\* \* \*

(3) To suspend the requirements of this act and regulations of the State Board of Education except that the school district shall remain subject to those provisions of this act set forth in [section] sections 1073, 1073.1, 1076, 1077, 1078, 1080, 1732-A(a), (b) and (c) [and section], 1714-B and 2104 and regulations under those sections.  
\* \* \*

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

#### ARTICLE VI-A

#### SCHOOL DISTRICT FINANCIAL RECOVERY

##### (a) Preliminary Provisions

Section 601-A. Scope of article.

This article provides for financial recovery in certain school districts.

Section 602-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:

"Advisory committee." The advisory committee established by a board of school directors under section 654-A.

"Chief recovery officer." The chief recovery officer appointed by the Secretary of Education under section 631-A.

"Claim." A right to:

(1) payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured; or

(2) an equitable remedy for breach of performance if the breach gives rise to a right to payment, whether or not the right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured.

"Creditor." An individual, partnership, corporation, association, estate, trust or governmental unit that has a claim

against a school district. The term shall include the Public School Employees' Retirement Board.

"Deficit." The excess of expenditures over revenues, calculated as a percentage of revenue, during an accounting period, and which calculation includes all governmental fund types and all proprietary fund types, but excludes all fiduciary fund types of the school district.

"Department." The Department of Education of the Commonwealth.

"Employee organization." As defined in section 1101-A.

"Expenditures." Reductions in fund equity, including current operating expenses that require the use of fund equity, debt service and capital outlays. The term shall not include interfund transfers.

"Financial recovery plan" or "plan." A financial recovery plan under subarticle (c).

"Financial recovery school district." A school district of the first class A, second class, third class or fourth class declared by the Secretary of Education to be in financial recovery status under section 621-A.

"Financial recovery school district transitional loan account." The account for loans awarded under Subdivision (vii) of subarticle (c).

"Fund equity." Excess of assets of a fund over its liabilities. The term shall include a fund balance.

"Receiver." The receiver of a financial recovery school district appointed under Subdivision (vi) of subarticle (c).

"Revenues." Additions to fund equity other than from interfund transfers, proceeds of debt and proceeds of disposition of general fixed assets.

"School district." A school district of the first class A, second class, third class and fourth class and a financial recovery school district. The term does not include a school district of the first class.

"Secretary." The Secretary of Education of the Commonwealth.

(b) School District Financial Watch

Section 611-A. Early warning system.

(a) Establishment.--

(1) The department shall develop and implement an early warning system under which the department shall:

(i) Compile financial data and maintain accurate and current information and data on the financial conditions of school districts. Each school district shall provide its financial data and information to the department within 15 days of a request by the department.

(ii) Regularly analyze and assess school district budget reports, data and other information directly related to the financial conditions of school districts.

(iii) Utilize appropriate fiscal and socioeconomic variables to identify financial difficulties in school districts in financial watch status.

(iv) Notify any school district identified for financial watch status.

(v) Offer technical assistance to school districts in financial watch status to correct minor financial problems and to avoid a declaration of financial recovery status under section 621-A.

(2) (i) The department shall develop the fiscal and economic variables to be used in identifying school districts in financial watch status, shall test the validity and reliability of the variables and shall continuously monitor the variables to assure their effectiveness.

(ii) The variables developed by the department under this paragraph shall include, but shall not be limited to, whether any political subdivision located within the school district is a financially distressed municipality under the act of July 10, 1987 (P.L.246, No.47), known as the Municipalities Financial Recovery Act.

(3) In developing an early warning system under this section, the department may employ or contract with fiscal consultants as deemed necessary to administer the provisions of this section.

(b) Duties.--When a school district is identified through the early warning system for financial watch status, the department

shall:

- (1) Notify the school district that the department has identified the school district for financial watch status.
- (2) Request from the school district all information necessary to enable the department to conduct a review of the school district's financial condition. A school district that receives a request for information under this paragraph shall provide the department with all information requested within 15 days.
- (3) Perform a thorough review of the school district's financial condition, which shall include a review of the information provided by the school district under paragraph (2) and which may include visits and correspondence with school district officers and employees.
- (4) Provide the school district with technical assistance appropriate to remedying the school district's financial difficulties, which may include, but shall not be limited to, contracting with financial consultants to assist the school district.

(c) Guidelines.--

- (1) Within 60 days of the effective date of this section, the department shall establish guidelines for the operation of the early warning system established under this section, including a description of the variables that will be used by the department to identify school districts in financial watch status. The guidelines shall be published as a statement of policy in the Pennsylvania Bulletin and shall be posted on the department's publicly accessible Internet website.
- (2) Notwithstanding any other provision of law to the contrary, guidelines required under this subsection shall not be subject to review, regulation or approval by the State Board of Education.
- (3) The guidelines established by the department, and any amendments thereto, shall be exempt from the requirements of the following:
  - (i) The act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.
  - (ii) The act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.
  - (iii) The act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.
- (4) The early warning system may not become operational until publication of the guidelines as required under paragraph (1).

(c) School District Financial Recovery

(i) Declaration of School District  
Financial Recovery Status

Section 621-A. Issuance of declaration.

(a) Criteria.--Subject to the provisions of subsection (b) and after proper investigation of the school district's financial condition, the administrative practices of the board of school directors and such other matters deemed appropriate by the secretary, the following shall apply:

- (1) (i) Subject to the provisions of subparagraph (ii), the secretary shall issue a declaration that a school district is in financial recovery status when either of the following applies:
  - (A) The school district has an average daily membership greater than 7,500 and receives an advance of its basic education subsidy at any time.
  - (B) The school district receives an advance of its basic education subsidy at any time and is either subject to a declaration of financial distress under section 691 or engaged in litigation against the Commonwealth in which the school district seeks financial assistance from the Commonwealth to allow the school district to continue in operation.
- (ii) Notwithstanding the provisions of subparagraph (i), the following shall apply:
  - (A) Not more than nine school districts may be under a declaration of financial recovery status under this section or in receivership under subdivision (vi) at any time.

(B) the secretary may decline to issue a declaration that a school district is in financial recovery status where the secretary determines that the school district, within the previous five years, has faced an emergency that caused the occurrence of a circumstance set forth in subparagraph (i).

(2) (i) Within two years of the effective date of this section, the State Board of Education shall promulgate regulations under the act of June 25, 1982 (P.L. 633, No. 181), known as the Regulatory Review Act, establishing additional criteria which the secretary may consider in determining whether to issue a declaration that a school district is in financial recovery status and whether a school district in financial recovery status shall be deemed a moderate financial recovery school district under subdivision (iv) or a severe financial recovery school district under subdivision (v), provided that not more than nine school districts may be under a declaration of financial recovery status under this section or in receivership under subdivision (vi) at any time. The criteria the secretary may consider in determining whether to issue a declaration that a school district is in financial recovery status shall include, but shall not be limited to, the following:

(A) The school district receives at least 85% of its per pupil funding from the Commonwealth and collects less than 50% of local taxes levied to fund the school district.

(B) The school district's unreserved fund balance has declined for three consecutive years and is less than 5% of the school district's annual expenditures.

(C) The school district's fixed costs are at least 30% of the school district's total annual expenditures.

(D) The school district's total outstanding debt is greater than the school district's annual expenditures.

(E) The salaries of any teachers or other employees of the school district are unpaid at least 15 days after payment is due.

(F) The school district is subject to withholding of its State appropriation under section 633.

(G) The school district has defaulted on the payment of a debt due to any school district, intermediate unit or charter school that remains unpaid on or after January 1 of the year following the school year it was due and there is no dispute regarding the validity or amount of the claim.

(H) The school district's assigned and unassigned total fund balance is less than zero in the school district's general fund.

(I) The school district's assigned and unassigned total fund balance in the school district's general fund as a percentage of total expenditures is less than 3%.

(J) The school district experiences a delinquent tax rate of more than 10%.

(K) The assessed valuation of taxable real estate in the school district has not increased over the previous five years.

(L) Any amount due a joint board of school directors under a joint board agreement remains unpaid beyond the due date specified in the joint board's articles of agreement.

(M) The school district has contracted a loan not authorized by law.

(N) The school district has accumulated and operated with a deficit equal to at least 2% of the assessed valuation of the taxable real estate within the school district for two successive years.

(O) A new, merged or union school district has been formed and one or more of the former school districts which compose the merged or union school district was a distressed school district under section 691 or a financial recovery school district under this

article at the time of the formation of the new, merged or union school district.

(ii) (A) In promulgating the regulations required under subparagraph (i), the State Board of Education shall convene and consult with a Statewide advisory committee which shall include a superintendent, a school board member, a school district business manager or chief financial officer, one designee from the department and one designee from the Office of the Budget.

(B) Members of the Statewide advisory committee required to be convened under clause (A) shall be selected to be representative of the rural, suburban and urban school districts of this Commonwealth.

(C) The Statewide advisory committee required to be convened under clause (A) shall be convened not later than 60 days after the effective date of this section and shall meet regularly to fulfill the requirements of this paragraph.

(b) Failure of Commonwealth to make payment.--No school district shall be declared in financial recovery status by reason of any of the circumstances enumerated in subsection (a) (1) or any of the criteria stated in regulations promulgated under subsection (a) (2) having been caused by the failure of the Commonwealth to make any payment of money due the school district at the time the payment is due, including payment of any Federal funding that is distributed through the Commonwealth.

(c) Appeal.--A declaration of financial recovery status by the secretary under this section is appealable under 2 Pa.C.S. (relating to administrative law and procedure).  
Section 622-A. Commitment to ensure delivery of effective educational services.

The Commonwealth shall ensure the delivery of effective educational services to all students enrolled in a school district in financial recovery status under Subdivision (i) or in receivership under Subdivision (vi).

Section 623-A. School directors to remain in office and elections.

(a) Resignation prohibited.--The school directors of a school district that has been declared in financial recovery status under this subdivision or is in receivership under Subdivision (vi) may not resign their offices, except with the consent of the chief recovery officer or receiver, and shall:

(1) Remain in office, unless:

(i) removed from office for neglect of duty under the provisions of section 318; or

(ii) the directors are elected to another position incompatible with the position of school director or are appointed to any position for which there is a requirement that the appointee must hold no elective office, for the remainder of their terms during the time the school district is in financial recovery status or receivership.

(2) Perform any duties delegated to them by the chief recovery officer or the receiver appointed to serve the school district.

(3) Comply with any directive issued to them by the chief recovery officer or the receiver if the directive is consistent with the financial recovery plan for the school district.

(b) No interference with elections.--A declaration by the secretary that a school district is in financial recovery status under section 621-A or the appointment of a receiver under Subdivision (vi) shall in no way interfere with the regular election or reelection of school directors for the school district.

Section 624-A. Termination of status.

(a) Declaration by secretary.--

(1) (i) Following a determination that the school district has satisfied and is continuing to satisfy the criteria for termination of financial recovery status enumerated in section 641-A(9), the secretary may issue a declaration terminating the school district's financial recovery status.

(ii) In making the determination under this paragraph, the secretary shall consider whether the monthly financial



reports submitted by the chief recovery officer to the secretary and the department concerning the school district's progress under the financial recovery plan under section 653-A(a)(3) or 664-A(a)(3) indicate that termination of financial recovery status is appropriate.

(2) If the secretary determines to terminate a school district's financial recovery status under this section, the secretary shall issue a written declaration stating:

(i) That the school district's financial recovery status has been terminated.

(ii) The effective date of the termination of financial recovery status.

(iii) A statement of the facts upon which the secretary relied in making the determination.

(b) Determination upon petition by a school district.--A financial recovery school district may petition the secretary for a declaration that the school district's financial recovery status has been terminated. A declaration issued under this subsection shall comply with subsection (a).

Section 625-A. Transition period.

(a) Board resumes control and oversight.--Subject to the provisions of subsections (b) and (c), after the secretary terminates a school district's financial recovery status under section 624-A, the following shall apply:

(1) The board of school directors shall resume full control over school district management.

(2) The chief recovery officer and the department shall oversee the board of school directors for five years to ensure financial stability is maintained.

(b) Petition for appointment of receiver.--If, during the transition period after the secretary terminates a school district's financial recovery status under section 624-A, the board of school directors fails to maintain the objectives stated in the financial recovery plan, the secretary shall petition the court of common pleas in the county in which the school district or the largest part in area of the school district is located for the appointment of a receiver under Subdivision (vi).

(c) Oversight where municipalities financially distressed.--Notwithstanding the provisions of subsection (a), the chief recovery officer and the department shall oversee the board of school directors of any former financial recovery school district for so long as any political subdivision located within the school district is a financially distressed municipality under the act of July 10, 1987 (P.L. 246, No. 47), known as the Municipalities Financial Recovery Act, without regard to whether the school district continues to maintain the objectives stated in its financial recovery plan. The oversight shall be subject to the provisions of subsection (b).

Section 626-A. Technical assistance.

Subject to sections 652-A(c)(2)(ii) and 663-A(c)(2)(ii), the department shall provide technical assistance to each financial recovery school district. The department's provision of technical assistance shall be coordinated through the chief recovery officer or receiver appointed to serve the financial recovery school district.

(ii) Chief Recovery Officer

Section 631-A. Appointment.

(a) Appointment.--Not later than five days after a declaration of financial recovery status under section 621-A, the secretary shall appoint a chief recovery officer for the financial recovery school district. The chief recovery officer shall serve at the pleasure of the secretary.

(b) Qualifications and prohibitions.--

(1) The chief recovery officer must be an individual who satisfies one of the following:

(i) possesses at least five years' experience in one or more of the following areas: budget and financial management, public school finance, school administration, accounting, academic assessment or education law;

(ii) holds a graduate degree from an accredited institution of higher education in business or finance and has at least four years' relevant experience in business, finance or management; or

(iii) is the current business manager or financial officer of a school district in this Commonwealth.

(2) The chief recovery officer may not be an elected or an appointed official or employee of the financial recovery school district for which he is appointed to serve as chief recovery officer, provided that the current business manager or financial officer of a financial recovery school district may serve as chief recovery officer for the financial recovery school district by which he is employed.

(3) During the term of appointment as chief recovery officer and for the following two years, the chief recovery officer may not seek or hold elected office in the financial recovery school district for which the chief recovery officer was appointed or in any political subdivision located in the financial recovery school district.

(c) Not subject to contractual competitive bidding procedures.--Notwithstanding any other provision of law to the contrary, the appointment of a chief recovery officer shall not be subject to contractual competitive bidding procedures.

#### Section 632-A. Compensation.

The department shall pay a chief recovery officer appointed by the secretary under section 631-A actual and necessary expenses incurred in the performance of duties as chief recovery officer and a reasonable salary determined by the department.

#### Section 633-A. Powers and duties.

Subject to section 662-A, the chief recovery officer shall:

(1) With the assistance of the department, develop, implement and administer a financial recovery plan in accordance with Subdivision (iii).

(2) Coordinate the department's provision of technical assistance to the financial recovery school district under section 626-A.

(3) Maintain oversight of the financial recovery school district during the transition period under section 625-A.

(4) Attend regular and executive sessions of the board of school directors.

(5) When a receiver is appointed to oversee the management of the financial recovery school district under Subdivision (vi), serve as an advisor to the receiver.

(6) Where an advisory committee is established under section 654-A, meet at least monthly with the advisory committee.

(7) In a financial recovery school district to which section 654-A does not apply, conduct at least four public forums on the basis for the financial recovery declaration and the development and implementation of a financial recovery plan.

#### Section 634-A. Access to information.

(a) School district required to provide records and information.--The chief recovery officer shall be given full access to all records of the financial recovery school district. Employees and elected and appointed officials of the financial recovery school district shall provide the chief recovery officer with all records and information requested.

(b) Enforcement.--

(1) If the chief recovery officer reasonably believes that an employee or an elected or appointed official of the financial recovery school district has failed to answer questions accurately or completely or has failed to furnish information requested, the chief recovery officer shall direct the employee or elected or appointed official in writing to furnish answers to questions or to furnish documents or records, or both.

(2) If the employee or elected or appointed official refuses to furnish answers to questions or to furnish documents or records within 15 days of a written request, the chief recovery officer shall petition the court of common pleas of the county in which the financial recovery school district or the largest part in area of the financial recovery school district is located for a writ of mandamus requiring the employee or elected or appointed official to provide the chief recovery officer with the information, documents or records requested.

(3) Within seven days of the filing of a petition under paragraph (2), the court shall conduct a hearing on the petition. The court shall grant the petition and compel the employee or elected or appointed official to provide the requested information unless the court finds by clear and convincing evidence that the request for information is arbitrary, capricious or wholly irrelevant to the duties of the chief recovery officer.

Section 635-A. Public and private meetings.

(a) Public meetings authorized.--

(1) The chief recovery officer may hold public meetings, as defined in 65 Pa.C.S. Ch. 7 (relating to open meetings), in connection with the preparation and implementation of a financial recovery plan.

(2) Meetings between the chief recovery officer and an advisory committee established under section 654-A shall be public meetings as defined in 65 Pa.C.S. Ch. 7.

(b) Private meetings authorized.--Notwithstanding the provisions of 65 Pa.C.S. Ch. 7, the chief recovery officer may conduct private negotiation sessions between the financial recovery school district and the individual creditors of the financial recovery school district in an effort to obtain the consent of each creditor to the proposed adjustment and handling of specific claims against the financial recovery school district.

(iii) Financial Recovery Plan

Section 641-A. Contents.

A financial recovery plan developed under this subarticle shall:

- (1) Provide for the delivery of effective educational services to all students enrolled in the financial recovery school district.
- (2) Provide for the payment of lawful financial obligations of the financial recovery school district.
- (3) Provide for the timely deposit of required payments to the Public School Employees' Retirement Fund.
- (4) Provide a plan for the financial recovery school district's return to financial stability, which may include any of the following, if appropriate to restoring the financial recovery school district's financial stability:
  - (i) Recommendations for:
    - (A) Satisfying judgments, past-due accounts payable and past-due and payable payroll and fringe benefits.
    - (B) Eliminating deficits and deficit funds.
    - (C) Restoring to special fund accounts money from those accounts that was used for purposes other than those specifically authorized.
    - (D) Balancing the budget, avoiding future deficits in funds and maintaining current payments of payroll, fringe benefits and accounts through possible revenue enhancement recommendations, including tax or fee changes.
    - (E) Avoiding a future declaration of financial recovery status.
    - (F) Enhancing the ability of the financial recovery school district to negotiate new general obligation bonds, lease rental debt, funded debt and tax and revenue anticipation borrowings.
    - (G) Considering changes in accounting and automation procedures for the financial benefit of the financial recovery school district.
    - (H) Proposing a reduction of debt due on specific claims by an amortized or lump-sum payment considered to be the most reasonable disposition of each claim possible for the financial recovery school district considering the totality of the circumstances.
  - (ii) Recommendations for:
    - (A) Changes in permanent and temporary staffing levels.
    - (B) Changes in organization.
    - (C) Changes in school district policy.
    - (D) Special audits or further studies.
    - (E) The sale, lease, conveyance, assignment or other use or disposition of the financial recovery

school district's assets.

(F) The application for a loan under the Financial Recovery Transitional Loan Program established in Subdivision (vii) in an amount specified by the chief recovery officer in the financial recovery plan. The financial recovery plan shall specify the current expenses of the school district to which the loan proceeds would be applied.

(iii) An analysis of whether functional consolidation or privatization of existing noninstructional or other school district services is appropriate and feasible and recommendations for carrying out such consolidation or privatization, including timelines for implementation and anticipated cost efficiencies to be attained.

(iv) A capital budget which addresses infrastructure deficiencies.

(v) Recommendations for greater use of Commonwealth or intermediate unit programs.

(vi) Recommendations for, and anticipated cost savings resulting from, the use of powers permitted to be used under section 642-A.

(5) Set forth a cash flow analysis for the financial recovery school district.

(6) State projections of revenues and expenditures for the current year and the next two years, both assuming the continuation of present operations and as impacted by the measures included in the financial recovery plan.

(7) State benchmarks and timelines for restoring the financial recovery school district to financial stability.

(8) Require the financial recovery school district to use financial data software that is connected directly to the department's financial data systems to ensure that both the financial recovery school district and the department are using accurate and consistent data. All costs of the financial data software required to be used by the financial recovery school district under this paragraph shall be paid by the department.

(9) Establish specific criteria that the financial recovery school district must satisfy before the secretary may terminate the financial recovery school district's financial recovery status under section 624-A. Such criteria shall include, but shall not be limited to:

(i) The financial recovery school district does not request an advance of its basic education subsidy.

(ii) All teacher and other employee salaries are paid when due.

(iii) The financial recovery school district is not in default on any bonds, notes or lease rentals and is not subject to withholding by the secretary under section 633.

(iv) The financial recovery school district does not satisfy the criteria stated in regulations promulgated under section 621-A(a)(2).

(v) The financial recovery school district is making progress toward financial stability.

#### Section 642-A. Powers and duties.

(a) General rule.--A school district in financial recovery status under this subdivision or in receivership under Subdivision (vi) may exercise any of the following powers only to the extent that the powers are specifically included in the school district's financial recovery plan and the exercise of the powers will effect needed economies in the operation of the district's schools:

(1) Reopen its budget for the current school year, notwithstanding any other provision of law.

(2) Convert school buildings to charter schools. The following shall apply:

(i) The school district may convert an existing public school building or a portion of an existing public school building to a charter school, provided that conversion will result in financial savings. There shall be no limit on the number of public schools in the school district that can be converted to a charter school.

(ii) The board of school directors may designate and approve by majority vote the existing public school

building or portion of an existing public school building that it seeks to convert to a charter school.

(iii) (A) The board of school directors shall solicit applications to operate a charter school established under this paragraph through a competitive request for proposal process. The content and dissemination of the request for proposal shall be consistent with the purpose and the requirements of Article XVII-A and shall require the applicant to demonstrate that the conversion will result in financial savings. The board of school directors may accept applications by an individual or entity authorized to establish a charter school under section 1717-A(a) to operate the converted charter school.

(B) The board of school directors shall evaluate each submitted proposal in a public manner. Once a proposal has been selected, the board of school directors shall explain how and why the proposal was selected and provide evidence, if available, of the provider's success in serving student populations similar to the targeted population, including demonstrated academic achievement, successful management of nonacademic school functions and safe school environment, if applicable.

(C) No member of the board of school directors may serve on the board of trustees of an existing school or portion of an existing school which is converted to a charter school under this subsection.

(D) The provisions of Article XVII-A shall apply to an existing public school building or portion of an existing public school building converted to a charter school, provided that any application to operate a charter school under the provisions of this section and any charter school established under the provisions of this section shall not be subject to sections 1717-A(b), (c), (d), (e), (f), (g), (h) and (i) and 1724-A(b), (c), (d), (e), (f), (g) and (h), including after the school district's financial recovery status is terminated under section 624-A or after the school district's receivership expires under section 675-A.

(E) In the case of an existing school or portion of an existing school being converted to a charter school, the board of school directors shall establish the alternative arrangements for current students who choose not to attend the charter school.

(3) Cancel or renegotiate any contract to which the board of school directors or the school district is a party, if the cancellation or renegotiation of contract will effect needed economies in the operation of the district's schools. Collective bargaining agreements are specifically exempt from this clause and shall be governed by the provisions of clause (15).

(4) Increase tax levies in such amounts and at such times as is recommended by the chief recovery officer, subject to the act of June 27, 2006 (1st Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act.

(5) Appoint a special collector of delinquent taxes for the school district who need not be a resident of the school district. The special tax collector shall exercise all the rights and perform all the duties imposed by law on tax collectors for school districts. The tax collector superseded by the special tax collector shall not be entitled to any commissions on the taxes collected by the special tax collector.

(6) Dispense with the services of such nonprofessional employees as in the judgment of the chief recovery officer are not actually needed for the economical operation of the school district.

(7) Enter into agreements with persons or for-profit or nonprofit organizations to operate one or more schools. A school operated under this paragraph shall be funded in accordance with the terms of the agreement.

(8) Suspend or revoke a charter under section 1729-A.

(9) Employ professional and senior management employees who do not hold State certifications if the secretary has approved the qualifications of the persons at salaries that are within the limitations stated in the financial recovery plan.

(10) Enter into agreements with persons or for-profit or nonprofit organizations providing noninstructional or other services to or for the school district, provided that the school district shall present a three-year cost comparison of the services as currently provided and as projected under the proposed agreement demonstrating that the proposed agreement will result in financial savings. Services provided under this paragraph shall be funded in accordance with the terms of the agreement. The agreement shall provide that the school district may terminate the agreement if costs under the agreement exceed the costs projected in the cost comparison.

(11) Close or reconstitute a school, including the reassignment, suspension or dismissal of professional employees.

(12) Appoint managers, administrators or for-profit or nonprofit organizations to oversee the operations of a school or group of schools within the school district.

(13) Reallocate resources, amend school procedures, develop achievement plans and implement testing or other evaluation procedures for educational purposes.

(14) Supervise and direct principals, teachers and administrators.

(15) Negotiate a new collective bargaining agreement if the negotiation of a new collective bargaining agreement will effect needed economies in the operation of the district's schools.

(16) Delegate to a person, including an employee of the school district or a for-profit or nonprofit organization, powers the chief recovery officer deems necessary to carry out the purposes of this article, subject to the supervision and direction of the chief recovery officer.

(17) Employ, contract with or assign persons or for-profit or nonprofit organizations to review the financial and educational programs of school buildings and make recommendations to the chief recovery officer regarding improvements to the financial or educational programs of school buildings.

(18) Negotiate a contract with a charter school under section 681-A(f).

(b) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Professional employee." The term shall have the meaning as given in section 1101(1).

"Teacher." An individual who holds an instructional certificate issued by the department under this act and is employed full time as a temporary professional or professional employee by a school entity and provides learning experiences directly to students during the instructional day.

Section 643-A. Financial recovery plan not affected by certain collective bargaining agreements or settlements.

No collective bargaining agreement, arbitration settlement or arbitration award may in any manner violate, expand or diminish the provisions of a financial recovery plan in effect on the date of execution of the collective bargaining agreement, arbitration settlement or arbitration award.

(iv) Process for Moderate Financial Recovery School Districts

Section 651-A. Applicability.

(a) General rule.--This subdivision shall apply to school districts that satisfy the criteria for financial recovery status stated in section 621-A(a)(1)(i)(A).

(b) Designation.--School districts that satisfy the criteria for financial recovery status stated in section 621-A(a)(1)(i)(A) shall be deemed "moderate financial recovery" school districts.

Section 652-A. Development and approval of plan.

(a) Submission of plan.--

(1) Within 90 days of appointment, the chief recovery officer shall, in consultation with the superintendent of the

school district, develop a financial recovery plan that complies with section 641-A and shall provide copies of the plan to the school district business office, each member of the board of school directors, the superintendent of the school district, the solicitor of the school district and each member of the advisory committee established under section 654-A. The chief recovery officer may comply with this subsection by providing copies of the plan by electronic mail.

(2) (i) The chief recovery officer may request from the secretary an extension of time to comply with paragraph (1).

(ii) The secretary shall grant the request for an extension of time, if the secretary determines that the chief recovery officer needs additional time to develop a financial recovery plan that complies with section 641-A.

(b) Public inspection.--Upon receipt of the plan, the board of school directors shall immediately place the plan on file for public inspection in the school district business office and make the plan available on the school district's publicly accessible Internet website.

(c) Board of school directors' approval.--

(1) Within 30 days of the chief recovery officer's submission of the plan to the board of school directors, the board of school directors shall approve or disapprove the plan by majority vote at a public meeting of the board of school directors. Approval of the plan by the board of school directors shall constitute the school district's application for a loan under Subdivision (vii) in the amount specified in the financial recovery plan.

(2) If the board of school directors does not approve the plan within 30 days, the following shall apply:

(i) The school district shall not be eligible for a financial recovery transitional loan under Subdivision (vii).

(ii) The school district shall not receive technical assistance from the department under section 626-A.

(3) If the board of school directors does not approve the plan within 365 days following a declaration of financial recovery status, the secretary shall petition the court of common pleas of the county in which the school district or the largest part in area of the school district is located for the appointment of a receiver under Subdivision (vi). The secretary shall file the petition under this paragraph not less than 366 days nor more than 370 days following the declaration of financial recovery status.

(d) Secretary approval.--

(1) If the board of school directors approves the plan under subsection (c), the chief recovery officer shall provide a copy of the plan to the secretary within five days of the board's approval.

(2) Within ten days of the chief recovery officer's submission of the plan to the secretary, the secretary shall approve or disapprove the plan in a written statement. Approval of the plan by the secretary shall constitute the department's approval of a loan under Subdivision (vii) in the amount specified in the financial recovery plan.

(3) If the secretary disapproves the plan, the following shall apply:

(i) The secretary's written statement shall state the reasons for the secretary's disapproval of the plan and recommendations for revisions to the plan.

(ii) The chief recovery officer shall develop a revised plan within 20 days of receipt of the secretary's written statement disapproving the plan, distribute copies of the plan as required under subsection (a) and submit the revised plan to the board of school directors and the secretary for approval pursuant to subsection (c) and this subsection.

Section 653-A. Implementation of financial recovery plan.

(a) Chief recovery officer charged with implementing plan.--Following the secretary's approval of the financial recovery plan under section 652-A(d), the chief recovery officer shall:

(1) Implement the plan.

(2) Give written notice of the plan's adoption to creditors, the employee organization and other parties who will be directly affected by the plan's implementation. The notice shall outline the provisions of the plan and specify how that party's claim or interest will be treated.

(3) Oversee the implementation and completion of the plan by directly controlling the implementation process, in consultation with the superintendent of the school district, including directing employees and elected or appointed officials of the school district to take actions that, in the judgment of the chief recovery officer, are necessary to implement the plan and to refrain from taking actions that, in the judgment of the chief recovery officer, would impede the implementation of the plan.

(4) Provide the department and the secretary with monthly reports that contain the following information:

(i) Evidence of payments to creditors as required under the plan.

(ii) Evidence that any loan given to the school district from the department under Subdivision (vii) is being repaid.

(iii) Monthly revenue and expenditure sheets which indicate the balances of each in relation to the other.

(iv) Evidence that the recommendations stated in the plan are being accomplished by the dates specified in the plan, where applicable.

(5) Suggest amendments or revisions to the plan that may be necessary to implement or complete the plan or adapt the plan to circumstances that arise or become apparent after approval of the plan by the secretary. In determining whether to suggest amendments or revisions to the plan, the chief recovery officer shall consult with the board of school directors, the advisory committee established under section 654-A and the superintendent of the school district. Amendments or revisions to the plan shall be submitted to the board of school directors and the secretary for approval as provided in section 652-A.

(6) Upon achievement of the goals and objectives stated in the plan, recommend to the secretary that financial recovery status be terminated under section 624-A.

(b) Duty to comply.--

(1) The board of school directors shall comply with all directives of the chief recovery officer under subsection (a) (3) and may take no action that is:

(i) inconsistent with the plan;

(ii) not specifically identified in the plan; or

(iii) not directed by the chief recovery officer as necessary to implement the plan.

(2) If a board of school directors fails to comply with paragraph (1), the school district shall be subject to the appointment of a receiver under Subdivision (vi).

Section 654-A. Advisory committee.

(a) Establishment.--

(1) Within ten days after a school district to which this subdivision applies is declared to be in financial recovery status under section 621-A, the board of school directors shall establish an advisory committee to meet and consult with the chief recovery officer or receiver in carrying out the duties of the chief recovery officer or receiver under this article.

(2) The sole function of the advisory committee shall be to provide recommendations and feedback to the chief recovery officer or receiver on the development and implementation of the financial recovery plan.

(b) Composition.--The advisory committee established under subsection (a) shall consist of:

(1) The following members appointed by the board of school directors:

(i) Two members of the board of school directors.

(ii) One principal employed by the school district.

(iii) One business official employed by the school district.

(2) The following members appointed by the intermediate unit of which the school district is a member:

(i) One employee of the intermediate unit.



(ii) One representative of a charter school or cyber charter school in which students residing in the school district are enrolled.

(iii) One special education advocate.

(iv) One superintendent, school director or business official of an adjoining school district.

(v) Two residents of the school district.

(3) One teacher appointed by the employee organization that represents teachers employed by the school district.

(4) The superintendent of the school district.

(c) Compensation prohibited.--Members of the advisory committee shall receive no compensation for their services.

(d) Meetings.--The advisory committee shall meet with the chief recovery officer or receiver at least monthly to discuss the development or implementation of the financial recovery plan. Meetings of the advisory committee shall be in accordance with 65 Pa.C.S. Ch. 7 (relating to open meetings).

(e) Termination.--The advisory committee shall terminate when the school district's financial recovery status terminates under section 624-A.

(f) Establishment of advisory committee following appointment of receiver.--

(1) If a receiver is appointed under section 671-A(a)(1)(iii), the board of school directors shall establish an advisory committee within ten days of the appointment of the receiver.

(2) The sole function of the advisory committee shall be to provide recommendations and feedback to the receiver on the development and implementation of the financial recovery plan.

(3) The provisions of subsections (b), (c) and (d) shall apply to the advisory committee.

(4) The advisory committee shall terminate when the school district's receivership expires under section 675-A.

(v) Process for Severe Financial

Recovery School Districts

Section 661-A. Applicability.

(a) General rule.--This subdivision shall apply to school districts that satisfy the criteria for financial recovery status stated in section 621-A(a)(1)(B).

(b) Designation.--School districts that satisfy the criteria for financial recovery status stated in section 621-A(a)(1)(B) shall be deemed "severe financial recovery" school districts.

Section 662-A. Vote to proceed.

(a) General rule.--Within 14 days following a declaration of financial recovery status under section 621-A, the board of school directors of a school district to which this subdivision applies shall, at a regular or special meeting of the board of school directors, adopt by majority vote a resolution electing to proceed with one of the following:

(1) cooperation with the chief recovery officer appointed under Subdivision (ii) and development, approval and implementation of a financial recovery plan under sections 663-A and 664-A; or

(2) the appointment of a receiver under Subdivision (vi).

(b) Effect of failure to vote.--Any failure by the board of school directors to hold a vote under this section within 14 days shall be deemed a vote to proceed with the appointment of a receiver.

(c) Receivership.--Where the board of school directors votes to proceed with the appointment of a receiver under subsection (a)(2) or fails to hold a vote under subsection (a), the secretary shall file a petition for the appointment of a receiver under section 671-A(a) by the earlier of the following:

(1) five days following the vote of the board of school directors to proceed with the appointment of a receiver; or

(2) nineteen days following the declaration of financial recovery status.

Section 663-A. Development and approval of plan.

(a) Submission of plan.--

(1) Within 30 days of appointment, the chief recovery officer of a school district that votes to proceed under section 662-A(1) shall develop a financial recovery plan that complies with section 641-A and provide copies of the plan to

the school district business office, each member of the board of school directors, the superintendent of the school district and the solicitor of the school district. The chief recovery officer may comply with this subsection by providing copies of the plan by electronic mail.

(2) (i) The chief recovery officer may request from the secretary an extension of time to comply with paragraph (1).

(ii) The secretary shall grant the request for an extension of time, if the secretary determines that the chief recovery officer needs additional time to develop a financial recovery plan that complies with section 641-A.

(b) Public inspection.--Upon receipt of the plan, the board of school directors shall immediately place the plan on file for public inspection in the school district business office and make the plan available on the school district's publicly accessible Internet website.

(c) Board of school directors' approval.--

(1) (i) Within ten days of the chief recovery officer's submission of the plan to the board of school directors, the board of school directors shall approve or disapprove the plan by majority vote at a public meeting of the board of school directors. The approval of the plan by the board of school directors shall constitute the school district's application for a loan under Subdivision (vii) in the amount specified in the financial recovery plan.

(ii) Any failure by the board of school directors to vote on the proposed plan within ten days shall be deemed a vote to disapprove the plan.

(2) If the board of school directors does not approve the plan within ten days, the following shall apply:

(i) The school district shall not be eligible for a financial recovery transitional loan under Subdivision (vii).

(ii) The school district shall not receive technical assistance from the department under section 626-A.

(iii) The secretary shall petition the court of common pleas of the county in which the school district or the largest part in area of the school district is located for the appointment of a receiver under Subdivision (vi).

(3) The secretary shall file the petition under this paragraph not later than five days following the vote by the board of school directors to disapprove the plan.

(d) Secretary approval.--

(1) If the board of school directors approves the plan under subsection (c), the chief recovery officer shall provide a copy of the plan to the secretary within five days.

(2) Within ten days of the chief recovery officer's submission of the plan to the secretary, the secretary shall approve or disapprove the plan in a written statement. The approval of the plan by the secretary shall constitute the department's approval of a loan under Subdivision (vii) in the amount specified in the financial recovery plan.

(3) If the secretary disapproves the plan, the following shall apply:

(i) The secretary's written statement shall state the reasons for the secretary's disapproval of the plan and recommendations for revisions to the plan.

(ii) The chief recovery officer shall develop a revised plan within 20 days of receipt of the secretary's written statement disapproving the plan, distribute copies of the plan as required under subsection (a) and submit the revised plan to the board of school directors and the secretary for approval under subsection (c) and this subsection.

Section 664-A. Implementation of financial recovery plan.

(a) Chief recovery officer charged with implementing plan.-- Following the secretary's approval of the financial recovery plan under section 663-A(d), the chief recovery officer shall implement the plan and:

(1) Give written notice of the plan's adoption to creditors, the employee organization and other parties who will be directly affected by the plan's implementation. The notice

shall outline the provisions of the plan and specify how that party's claim or interest will be treated.

(2) Oversee the implementation and completion of the plan by directly controlling the implementation process, including directing employees and elected or appointed officials of the school district to take actions that, in the judgment of the chief recovery officer, are necessary to implement the plan and to refrain from taking actions that, in the judgment of the chief recovery officer, would impede the implementation of the plan.

(3) Provide the department and the secretary with monthly reports that contain the following information:

(i) Evidence of payments to creditors as required under the plan.

(ii) Evidence that any loan given to the school district from the department under Subdivision (vi) is being repaid.

(iii) Monthly revenue and expenditure sheets which indicate the balances of each in relation to the other.

(iv) Evidence that the recommendations stated in the plan are being accomplished by the dates specified in the plan where applicable.

(4) Suggest amendments or revisions to the plan that may be necessary to implement or complete the plan or adapt the plan to circumstances that arise or become apparent after approval of the plan by the secretary. In determining whether to suggest amendments or revisions to the plan, the chief recovery officer shall consult with the board of school directors and the superintendent of the school district. Amendments or revisions to the plan shall be submitted to the board of school directors and the secretary for approval as provided in section 663-A.

(5) Upon achievement of the goals and objectives stated in the plan, recommend to the secretary that financial recovery status be terminated under section 624-A.

(b) Duty to comply.--

(1) The board of school directors shall comply with all directives of the chief recovery officer under subsection (a) i>¿ (2) and may take no action that is:

(i) inconsistent with the plan;

(ii) not specifically identified in the plan; or

(iii) not directed by the chief recovery officer as necessary to implement the plan.

(2) If a board of school directors fails to comply with paragraph (1), the school district shall be subject to the appointment of a receiver under Subdivision (vi).

(vi) Receivership

Section 671-A. Appointment of a receiver.

(a) Duty to file petition.--

(1) The secretary shall petition the court of common pleas in the county in which a school district or the largest part in area of the school district is located for the appointment of the individual named in the petition to serve as receiver for the school district upon the occurrence of any of the following conditions:

(i) A failure by the board of school directors to approve a financial recovery plan under section 652-A(c) or 663-A(c).

(ii) A failure by the board of school directors to comply with directives issued by the chief recovery officer under section 653-A(a) (2) or 664-A(a) (2).

(iii) A failure by the board of school directors to satisfy or continue to satisfy the objectives stated in the financial recovery plan under section 641-A(9) during the transition period under section 625-A.

(iv) A vote by the board of school directors to proceed with the appointment of a receiver under section 662-A(2).

(2) For a school district that was declared to be in financial recovery status under section 621-A(a) (1) (i) (A), the secretary shall file a petition under this section not less than 366 days nor more than 370 days following the declaration of financial recovery status.

(b) **Financial recovery plan.**--The secretary shall attach to the petition filed under subsection (a) a copy of a financial recovery plan for the school district. The financial recovery plan attached to the petition shall comply with section 641-A. When a receiver is appointed under this subdivision, all references to the chief recovery officer in section 641-A shall be deemed references to the receiver appointed under this subdivision.

(c) **Requirements for individual appointed as receiver.**--

(1) To be appointed as receiver under this subdivision, an individual must satisfy one of the following:

(i) possess at least five years' experience in one or more of the following areas: budget and financial management, public school finance, school administration, accounting, academic assessment or education law;

(ii) hold a graduate degree from an accredited higher education institution in business or finance and have at least four years' relevant experience in business, finance or management; or

(iii) be the current business manager or financial officer of a school district in this Commonwealth.

(2) The chief recovery officer of the financial recovery school district may be appointed as receiver.

(3) The receiver shall not:

(i) Seek or hold a position as an employee or as an elected or appointed official of the school district for which the individual is appointed to serve as receiver during the term of the receivership or for a period of two years after the receivership has ended.

(ii) Seek or hold elected office in a political subdivision within the school district during the term of the receivership or for a period of two years after the receivership has ended.

(iii) Engage in any conduct prohibited by the act of July 19, 1957 (P.L. 1017, No. 451), known as the State Adverse Interest Act, or 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure).

(d) **Consent.**--The occurrence of any of the conditions enumerated in subsection (a) shall be deemed consent by the board of school directors to a petition filed by the secretary for the appointment of a receiver under this subdivision.

(e) **Notice.**--On the same day the secretary files the petition under subsection (a), the secretary shall:

(1) Serve the petition by electronic mail, first class mail or hand delivery upon all of the following:

(i) Each member of the board of school directors of the school district.

(ii) The chief recovery officer of the school district.

(iii) The superintendent of the school district.

(iv) The solicitor of the school district.

(v) Each member of the advisory committee, if an advisory committee has been established under section 654-A.

(2) Publish notice of the filing of the petition once in a newspaper of general circulation in the school district.

(f) **Hearing.**--Within seven days after the filing of a petition under subsection (a), the court of common pleas shall conduct a hearing on the petition.

(g) **Order.**--

(1) Not later than ten days following the hearing conducted under subsection (f), the court shall issue an order granting or denying the receivership. The court shall grant the receivership unless the court finds by clear and convincing evidence that the petition for the appointment of a receiver is arbitrary, capricious or wholly irrelevant to restoring the school district to financial stability.

(2) An order issued under this subsection granting the receivership shall do all of the following:

(i) Declare the school district to be in receivership for a period of three years, subject to extension under section 675-A(b).

(ii) State the criteria upon which the order is granted.

(iii) State findings of fact to support the order.

(iv) Appoint the individual named in the petition to be the receiver if the individual satisfies the provisions of subsection (c), provided that the court may reject the appointment for any reason. If the court rejects the appointment, the court may do either of the following:

- (A) name a receiver subject to the requirements of section 671-A(c) and for good cause shown; or
- (B) order the secretary to submit an alternative appointment.

(v) Direct the receiver to implement the financial recovery plan attached to the petition under subsection (b).

(vi) Order the department to award a loan to the school district under section 682-A(a)(1)(ii), if the receiver appointed for the school district has applied for a loan under section 682-A(a)(1)(ii) and the school district satisfies the criteria stated in section 681-i»; A(a).

(3) An order issued under this subsection denying the receivership shall state:

- (i) The reasons the petition was denied.
- (ii) Findings of fact to support the order.

(h) Compensation.--

(1) The receiver's compensation shall be set pursuant to a contract between the receiver and the department and paid by the department.

(2) The department shall reimburse the receiver for all actual and necessary expenses incurred in the performance of the individual's duties as receiver.

(i) Liability and immunity.--The receiver shall not be personally liable for any obligations of the school district. The receiver shall be entitled to sovereign and official immunity as provided in 1 Pa.C.S. § 2310 (relating to sovereign immunity reaffirmed; specific waiver) and shall remain immune from suit except as provided by and subject to the provisions of 42 Pa.C.S. Ch. 85 Subchs. A (relating to general provisions) and B (relating to actions against Commonwealth parties).

Section 672-A. Powers and duties.

(a) Assumption of powers and duties.--

(1) When a receiver is appointed under section 671-A, the receiver shall assume all powers and duties of the chief recovery officer and the board of school directors, including all powers and duties of the board of school directors stated in the financial recovery plan.

(2) Paragraph (1) shall not apply to the power to levy and raise taxes. Such power shall remain solely with the board of school directors, provided that the board of school directors shall levy and raise taxes if directed to do so by the receiver.

(3) The chief recovery officer appointed for the financial recovery school district under section 631-A shall remain in place as an advisor to the receiver.

(4) If the chief recovery officer appointed under section 631-A is appointed as receiver by the court under section 671-A, the secretary may appoint an individual to replace the chief recovery officer, subject to section 631-i»; A(b).

(b) Powers and duties of the receiver.--In addition to the powers assumed under subsection (a), a receiver appointed under section 671-A shall have the following powers and duties, notwithstanding any other provision of law to the contrary:

(1) Implement the financial recovery plan attached to the petition filed under section 671-A(a).

(2) Submit quarterly reports to the secretary, superintendent and board of school directors of the school district concerning the progress of the school district under the financial recovery plan. Where an advisory committee has been established under section 654-A, the reports shall also be submitted to the advisory committee. The reports shall be posted on the school district's publicly accessible Internet website.

(3) Direct employees and appointed officials of the school district to take actions that, in the judgment of the receiver, are necessary to implement the financial recovery plan and to

refrain from taking actions that, in the judgment of the receiver, would impede the implementation of the plan.

(4) Direct the board of school directors to levy and raise taxes.

(5) Modify the financial recovery plan as necessary to restore the school district to financial stability by submitting a petition to the court of common pleas. Within seven days of the filing of the petition, the court of common pleas shall issue a decision approving or disapproving the petition. The court of common pleas shall approve the modification, unless the court finds by clear and convincing evidence that the modification is arbitrary, capricious or wholly inadequate to restore the school district to financial stability.

(6) Employ financial or legal experts the receiver deems necessary to implement or modify the financial recovery plan. Notwithstanding any law to the contrary, the employment of such experts shall not be subject to contractual competitive bidding procedures.

(7) Attend regular and executive sessions of the board of school directors of the school district.

(8) Petition the court of common pleas in the county in which the school district or the largest part in area of the school district is located to issue a writ of mandamus upon any employee or elected or appointed official of the school district to secure compliance with a directive of the receiver issued under paragraph (3) or (4). Within seven days of the filing of the petition, the court shall grant the relief requested if the court determines that the directive is consistent with the financial recovery plan.

(9) Meet at least monthly with the advisory committee, where an advisory committee has been established under section 654-A.

(c) Prohibited activity.--Nothing in this subarticle or the financial recovery plan shall be construed to authorize the receiver to do any of the following:

(1) Unilaterally levy or raise taxes.

(2) Unilaterally abrogate, alter or otherwise interfere with a lien, charge, covenant or relative priority that is:

(i) Held by a holder of a debt obligation of a school district.

(ii) Granted by the contract, law, rule or regulation governing the debt obligation.

(3) Unilaterally impair or modify existing bonds, notes, school district securities or other lawful contractual or legal obligations of the school district, except as otherwise ordered by a court of competent jurisdiction or as provided in section 642-A(a)(3).

Section 673-A. Effect of appointment of receiver.

(a) General rule.--The appointment of a receiver under this subdivision shall have the effect of:

(1) Imposing on the employees and elected and appointed officials of the school district a duty to comply with directives of the receiver issued under section 672-A(b)(3) or (4).

(2) Suspending the authority of the elected and appointed officials of the school district to exercise power on behalf of the school district pursuant to law, charter, resolution, ordinance, rule or regulation, except as directed by the receiver under section 672-A(b)(3) or (4).

(b) Form of government.--Appointment of a receiver under this article shall not be construed to change the form of government of the school district.

Section 674-A. Vacancy and revocation.

(a) General rule.--When a vacancy in the office of the receiver occurs, the secretary shall file a petition with the court of common pleas in the county in which the school district or the largest part in area of the school district is located requesting that the individual named in the petition be appointed as receiver.

(b) Revocation.--The secretary may, for any reason, file a petition with the court of common pleas in the county in which the school district or the largest part in area of the school district is located requesting that the appointment of the receiver be

revoked and that the current receiver be replaced by the individual named in the petition.

(c) Requirements.--The requirements of section 671-A(c) shall apply to the individual named in a petition filed under subsection (a) or (b). Within seven days of the secretary's filing of a petition under subsection (a) or (b), the court shall grant the petition to appoint the named individual as receiver if the individual satisfies the requirements of section 671-i»¿ A(c), provided that the court may reject the appointment for any reason. If the court rejects the appointment, the court may do either of the following:

(1) name a receiver subject to the requirements of section 671-A(c) and for good cause shown; or

(2) order the secretary to submit an alternative appointment.

Section 675-A. Termination of receivership.

(a) Time.--Except as otherwise provided under subsection (b), a receivership granted under section 671-A shall expire three years after the initial appointment of the receiver under section 671-A.

(b) Extension.--

(1) The secretary may petition the court of common pleas in the county in which the school district or the largest part in area of the school district is located for one or more extensions of the receivership.

(2) The court shall grant each extension for another three years unless the court finds by clear and convincing evidence that the request for extension is arbitrary, capricious or wholly irrelevant to restoring the school district to financial stability.

Section 676-A. Transition period.

(a) Board resumes control.--Subject to the provisions of subsections (b) and (c), after a receivership granted under section 671-A expires according to the provisions of section 675-A, the following shall apply:

(1) The board of school directors shall resume full control over school district management.

(2) The chief recovery officer and the department shall oversee the board of school directors for five years to ensure financial stability is maintained.

(b) Declaration of financial recovery status.--If, during the transition period after the expiration of the receivership, the board of school directors fails to maintain the objectives stated in the financial recovery plan, the school district shall be subject to a declaration of financial recovery status under Subdivision (i).

(c) Oversight where municipalities financially distressed.--Notwithstanding the provisions of subsection (a), the chief recovery officer and the department shall oversee the board of school directors of any school district formerly in receivership under this subdivision for so long as any political subdivision located within the school district is a financially distressed municipality under the act of July 10, 1987 (P.L.246, No.47), known as the Municipalities Financial Recovery Act, without regard to whether the school district continues to maintain the objectives stated in its financial recovery plan.

(vii) Financial Recovery  
Transitional Loan Program

Section 681-A. Program.

(a) Establishment.--The Financial Recovery Transitional Loan Program is established in the department under which the department shall provide loans to school districts that satisfy both of the following:

(1) The school district satisfies the criteria for a declaration of financial recovery status under section 621-i»¿ A(a) (1) (i).

(2) The board of school directors has approved a financial recovery plan under section 652-A(c) or 663-A(c).

(b) Nature of loans.--All loans granted by the department shall be free from interest and shall be repayable according to a covenant that states a schedule for repayment in specified amounts and dates.

(c) Funding of loans.--All loans granted by the department under this subdivision may be made from moneys in the account

established under subsection (d).

(d) Financial Recovery School District Transitional Loan Account.--

(1) The Financial Recovery School District Transitional Loan Account is established as a restricted account in the department.

(2) The account may be funded by any annual appropriation from the General Assembly for this program, principal repayments on all loans made under this subdivision, other funds not encumbered or committed from appropriations for grants and subsidies made to the department to assist school districts for the prior fiscal year which are authorized for use by the General Assembly on an annual basis and any interest earned on moneys in the account.

(3) The moneys in the account may be used to make loans under this subdivision.

(e) Eligibility and suspension of loan.--

(1) A school district that satisfies the criteria stated in subsection (a) shall receive a loan under this subdivision in the amount, and accessible over the term, stated in the financial recovery plan approved by the secretary under section 652-A(d)(2) or 663-A(d)(2) or ordered by the court under section 671-A(g)(2)(vi).

(2) (i) Any loan granted under this subdivision to a school district shall be suspended and immediately due and payable if, in the judgment of the secretary, the school district fails to take all actions necessary to implement a financial recovery plan under section 653-i; A(b) or 664-A(b) and is not progressing toward financial stability.

(ii) Where the secretary determines to suspend a loan under this paragraph, the secretary shall notify the chair and minority chair of the Appropriations Committee of the Senate, the chair and minority chair of the Appropriations Committee of the House of Representatives, the chair and minority chair of the Education Committee of the Senate and the chair and minority chair of the Education Committee of the House of Representatives.

(f) Voluntary agreement.--

(1) A school district that receives a loan under this subdivision may enter into a voluntary agreement with one or more charter schools in which students residing within the school district are enrolled, which agreement provides that the charter school may give the school district funds to assist the school district in repayment of the loan.

(2) Any amount provided by the charter school under this subsection shall be in an amount agreed upon by the charter school and the school district.

Section 682-A. Loan procedure.

(a) General rule.--

(1) (i) The chief recovery officer of a school district that is eligible for a loan under section 681-A(a) may apply to the secretary for a loan on behalf of the school district. The submission of a financial recovery plan to the secretary under section 652-A(d) or 663-A(d) that recommends the application for a loan under section 641-i; A(4)(ii)(F) shall constitute an application to the secretary for a loan under this subdivision.

(ii) If a receiver has been appointed for the school district in accordance with section 671-A(a)(1)(iii), the receiver may apply to the secretary for a loan on behalf of the school district. The submission of a financial recovery plan to the court under section 671-A(b) that recommends the application for a loan pursuant to section 641-A(4)(ii)(F) shall constitute an application to the secretary for a loan under this subdivision. Through an order issued under section 671-A(g), the court shall order the department to approve a loan to the school district under this subdivision if the school district satisfies the criteria stated in section 681-A(a).

(2) If a school district satisfies the criteria stated in section 681-A(a), the secretary shall approve the application and request the release of funds from the Secretary of the Budget.

(b) Immediate emergencies.--



(1) Notwithstanding the requirements of section 681-1> A(a), prior to a school district's approval of a financial recovery plan, the chief recovery officer may apply to the secretary for an expedited loan to immediately assist the school district if the chief recovery officer verifies the following upon reasonable belief:

(i) all steps have been taken to ensure only critical payments have been made to maintain and continue instruction of students enrolled in the school district; and

(ii) either of the following exists:

(A) the school district is in imminent danger of insolvency; or

(B) the school district may cease operations within 30 days.

(2) (i) Upon receipt of an application under this subsection, the secretary shall review all data immediately available and shall determine whether a loan is warranted.

(ii) If warranted, the secretary shall approve the application and request the release of the funds from the Secretary of the Budget. The secretary may impose such terms and conditions on a loan approved under this subsection as the secretary determines are necessary and appropriate.

(iii) The secretary's determination under this subsection is appealable under 2 Pa.C.S. (relating to administrative law and procedure).

#### Section 683-A. Limitations.

(a) Use.--A loan to a school district under this subdivision shall be used solely to implement the components of the financial recovery plan, including the payment of current expenses of the school district as identified in the financial recovery plan.

(b) Local Government Unit Debt Act.--A loan to a school district under this subdivision shall not be subject to, and shall be subordinate to indebtedness incurred under, the provisions of 53 Pa.C.S. Pt. VII Subpt. B (relating to indebtedness and borrowing).

(c) Amount.--The aggregate amount of loans awarded to school districts under this subdivision shall not at any time exceed the amount in the Financial Recovery School District Transitional Loan Account.

(d) Number of loans.--A school district eligible for a loan under this subdivision shall receive a maximum of one loan per fiscal year.

(e) Withholding not applicable.--A school district's failure to make timely payment of principal on a loan issued under this subdivision shall not subject the school district to withholding of unpaid amounts from State appropriations under section 633.

#### (viii) Miscellaneous Provisions

#### Section 691-A. Applicability.

(a) General rule.--Except as otherwise provided in subsection (b), nothing in this article is intended to limit or otherwise abrogate the applicability of any other part of this act.

(b) Conflict.--If there is a conflict between a provision of this article and any other provision of this act or other State law, the provision of this article shall prevail.

#### Section 692-A. Bankruptcy prohibited.

A school district may not file a municipal debt adjustment action under the Bankruptcy Code (11 U.S.C. § 101 et seq).

#### Section 693-A. Termination of special board of control.

Where a school district is governed by a special board of control under section 692 as of the effective date of this section, the special board of control shall terminate immediately upon the appointment of a chief recovery officer for the school district as provided under section 631-A.

Section 11. Sections 907-A(b)(3) and 921-A(a.1) of the act, amended or added June 30, 2011 (P.L.112, No.24), are amended to read:

Section 907-A. Subsidies for Services.--\* \* \*

(b) No later than February 1, 2012, and by February 1 of each year thereafter, an intermediate unit shall submit to the Department of Education a report on subsidies and funds received in accordance with this section.

\* \* \*

(3) The Department of Education shall post the reports on its publicly accessible Internet website **by March 1 of each year.**

\* \* \*

Section 921-A. Financial Reports.--\* \* \*

(a.1) [The] **By March 1 of each year, the** Department of Education shall post on its publicly accessible Internet website information included in the intermediate units' annual financial reports. In posting the information, the Department of Education shall use a format consistent with the format the Department of Education uses when posting the annual financial report information of other local education agencies.

\* \* \*

Section 12. Section 1073 of the act, amended January 14, 1970 (1969 P.L.468, No.192) and January 16, 1974 (P.L.1, No.1), is amended to read:

Section 1073. Manner of Election or Approval.--(a) The board of school directors of each school district[, except in school districts of the first class,] shall meet at its regular place of meeting, during the last year of the term of the district superintendent or at any other time when a vacancy shall occur in the office of district superintendent, at an hour previously fixed by the board. The secretary of each board of school directors shall mail to each member thereof at least five days beforehand, a notice of the time, place and purpose of such meeting. At such meeting the board shall elect or approve a properly qualified district superintendent **to enter into a contract** to serve a term of [from] three to five years from the first day of July next following his election or from a time mutually agreed upon by the duly elected district superintendent and the board of school directors. **The contract shall be subject to the act of February 14, 2008 (P.L.6, No.3), known as the "Right-to-Know Law."**

(b) At a regular meeting of the board of school directors occurring at least one hundred fifty (150) days prior to the expiration date of the term of office of the district superintendent, the agenda shall include an item requiring affirmative action by five or more members of the board of school directors to notify the district superintendent that the board intends to retain him for a further term of [from] three (3) to five (5) years or that another or other candidates will be considered for the office. In the event that the board fails to take such action at a regular meeting of the board of school directors occurring at least one hundred fifty (150) days prior to the expiration date of the term of office of the district superintendent, he shall continue in office for a further term of similar length to that which he is serving.

(d) The term of office or commission of a district superintendent or assistant district superintendent shall not be shortened by reason of the fact that the district in which he serves shall be come part of a joint school, or by reason of the fact that the district in which he serves shall become a part of a new school district established as the result of reorganization of school districts pursuant to Article II., subdivision (i) or section 224 of this act. Any district superintendent, assistant district superintendent or supervising principal not selected as the district superintendent of the joint school or newly established school district in which the district he serves becomes a part shall be assigned to a position or office for which he is eligible: Provided, however, That in a new school district reorganized under Article II., subdivision (i) or section 224 of this act, he shall be assigned to a position or office which is administrative or supervisory in nature only, but there shall be no reduction in salary until the expiration of his commission. Thereafter, unless elected to an office requiring a commission he shall have the status of a professional employe: Provided, That the board of school directors may adjust the salary according to the classification of the position to which he may be assigned, and that the period of service as a commissioned district superintendent, assistant district superintendent or associate superintendent shall be counted as time served as a professional employe in determining his seniority rights.

(e) **The following shall apply:**

(1) **Notwithstanding any other provision of law, no individual shall be employed as a district superintendent or assistant**

district superintendent by a school district except pursuant to a written contract of employment expressly stating the terms and conditions of employment.

(2) A contract for the employment of a district superintendent or assistant district superintendent shall do all of the following:

(i) Contain the mutual and complete agreement between the district superintendent or assistant district superintendent and the board of school directors with respect to the terms and conditions of employment.

(ii) Consistent with State Board of Education certification requirements, specify the duties, responsibilities, job description and performance expectations, including performance standards and assessments provided for under section 1073.1.

(iii) Incorporate all provisions relating to compensation and benefits to be paid to or on behalf of the district superintendent or assistant district superintendent.

(iv) Specify the term of employment and state that the contract shall terminate immediately, except as otherwise provided under this section, upon the expiration of the term unless the contract is allowed to renew automatically under subsection (b).

(v) Specify the termination, buyout and severance provisions, including all postemployment compensation and the period of time in which the compensation shall be provided. Termination, buyout and severance provisions may not be modified during the course of the contract or in the event a contract is terminated prematurely.

(vi) Contain provisions relating to outside work that may be performed, if any.

(vii) State that any modification to the contract must be in writing.

(viii) State that the contract shall be governed by the laws of this Commonwealth.

(ix) Limit compensation for unused sick leave in new employment contracts entered into after the effective date of this subsection for district superintendents or assistant district superintendents who have no prior experience as a district superintendent or assistant district superintendent to the maximum compensation for unused sick leave under the school district's administrator compensation plan under section 1164 in effect at the time of the contract.

(x) Limit transferred sick leave from previous employment to not more than thirty (30) days in new employment contracts after the effective date of this subsection for district superintendents or assistant district superintendents who have no prior experience as a district superintendent or assistant district superintendent.

(xi) Specify postretirement benefits and the period of time in which the benefits shall be provided.

(3) No agreement between the board of school directors and a district superintendent or assistant district superintendent for a negotiated severance of employment prior to the end of the specified contract term shall provide for severance compensation to the district superintendent or assistant district superintendent, including the reasonable value of any noncash severance benefits or postemployment benefits not otherwise accruing under the contract or pursuant to law, that:

(i) If the agreement takes effect two (2) years or more prior to the end of the specified contract term, exceeds the equivalent of one (1) year's compensation and benefits otherwise due under the contract.

(ii) If the agreement takes effect less than two (2) years prior to the end of the specified contract term, exceeds the equivalent of one-half of the total compensation and benefits due under the contract for the remainder of the term.

Section 13. The act is amended by adding a section to read:

Section 1073.1. Performance Review.--(a) In addition to any other requirements provided for under this act, the employment contract for a district superintendent or assistant district superintendent shall include objective performance standards mutually agreed to in writing by the board of school directors and the district superintendent or assistant district superintendent. The objective performance standards may be based upon the following:

(1) achievement of annual measurable objectives established by the school district;

- (2) achievement on Pennsylvania System of School Assessment (PSSA) tests;
- (3) achievement on Keystone Exams;
- (4) student growth as measured by the Pennsylvania Value-Added Assessment System;
- (5) attrition rates or graduation rates;
- (6) financial management standards;
- (7) standards of operational excellence; or
- (8) any additional criteria deemed relevant and mutually agreed to by the board of school directors and the district superintendent or assistant district superintendent.

(b) The board of school directors shall conduct a formal written performance assessment of the district superintendent and assistant district superintendent annually. A time frame for the assessment shall be included in the contract.

(b.1) The board of school directors shall post the mutually agreed to objective performance standards contained in the contract on the school district's publicly accessible Internet website. Upon completion of the annual performance assessment, the board of school directors shall post the date of the assessment and whether or not the district superintendent and assistant district superintendent have met the agreed-to objective performance standards on the school district's publicly accessible Internet website.

(c) The State Board of Education may promulgate regulations pursuant to the act of June 25, 1982 (P.L. 633, No. 181), known as the "Regulatory Review Act," in order to implement this section.

Section 14. Sections 1076 and 1077 of the act, amended January 16, 1974 (P.L. 1, No. 1), are amended to read:

Section 1076. Election of Assistant District Superintendents[, Except in Districts First Class].--[Except in districts of the first class, assistant] **Assistant** district superintendents shall be chosen by a majority vote of all the members of the board of school directors of the district, for a term of [from] three to five years upon the nomination by the district superintendent.

Section 1077. Term and Salary of Assistants.--(a) Assistant district superintendents may serve through the term of the district superintendent, or enter a contract for a term of [from] three to five years at salaries paid by the district, and fixed by a majority vote of the whole board of school directors prior to their election. **The contract shall be subject to the act of February 14, 2008 (P.L. 6, No. 3), known as the "Right-to-Know Law."**

(b) At a regular meeting of the board of school directors occurring at least one hundred fifty (150) days prior to the expiration date of the term of office of the assistant district superintendent, the agenda shall include an item requiring affirmative action by five (5) or more members of the board of school directors to notify the assistant district superintendent that the board intends to retain him for a further term of [from] three (3) to five (5) years or that another or other candidates will be considered for the office. In the event that the board fails to take such action at a regular meeting of the board of school directors occurring at least one hundred fifty (150) days prior to the expiration date of the term of office of the assistant district superintendent, he shall continue in office for a further term of similar length to that which he is serving.

Section 15. Section 1078 of the act, amended January 14, 1970 (1969 P.L. 468, No. 192), is amended to read:

Section 1078. Commissions.--District superintendents and assistant district superintendents shall be commissioned by the [Superintendent of Public Instruction] **Secretary of Education.**

Section 16. Section 1080 of the act is amended to read:

Section 1080. Removal.--(a) District superintendents and assistant district superintendents may be removed from office **and have their contracts terminated**, after hearing, by a majority vote of the board of school directors of the district, for neglect of duty, incompetency, intemperance, or immorality, of which hearing notice of at least one week has been sent by mail to the accused, as well as to each member of the board of school directors.

(b) The board of school directors shall publicly disclose at the next regularly scheduled monthly meeting the removal of a district superintendent or assistant district superintendent from office under subsection (a).

**(c) Proceedings under this section shall be held under 2 Pa.C.S. Ch. 5 Subch. B (relating to practice and procedure of local agencies).**

Section 17. Section 1607(b)(1) of the act, amended November 23, 2010 (P.L.1350, No.123), is amended and the section is amended by adding a subsection to read:

Section 1607. Attendance in Other Districts.--\* \* \*

(b) If a third class school district operating under a special board of control pursuant to section 692 has, with the approval of the Secretary of Education, curtailed its educational program by eliminating its high school and has not assigned its high school pupils to another school district and provided adequate transportation in a manner under subsection (a), the secretary shall have the following authority:

(1) To designate two or more school districts, which shall accept on a tuition basis the high school students of the distressed school district, so long as a designated school district's border is no more than three (3) miles from the border of the distressed school district. The designation under this paragraph shall occur no later than thirty (30) days after receiving the approval of the secretary to curtail its educational program by the elimination of its high school, provided, however, that if any school district meets the criteria of this subsection on the effective date of this subsection, the designation of school districts shall occur no later than thirty (30) days after the effective date of this subsection. [No designated school district shall be assigned more than one hundred sixty-five (165) students from the distressed school district.]

\* \* \*

**(b.1) (1) The following shall apply to professional and temporary professional employes of a school district in which pupils have been reassigned to another school district pursuant to subsection (b):**

(i) The school district that has eliminated its high school shall create a pool comprised of the professional and temporary professional employes who have received formal notice of suspension as a result of the school district's elimination of its high school program.

(ii) Employes in the pool created under clause (i) shall be offered employment by any school district receiving students who have been reassigned pursuant to subsection (b) whenever that school district has a vacancy for a position that an employe in the pool is certified to fill, provided that no employe of the school district in which the vacancy exists, including a suspended or demoted employe, has a right to such vacancy under this act or the collective bargaining agreement of that school district.

(iii) No new employe shall be hired by any school district receiving students who have been reassigned pursuant to subsection (b) until the position has been offered, in order of seniority, to all properly certified members of the pool created under clause (i).

(2) Employes hired from the pool as provided under this subsection shall be credited by the hiring school district for all sick leave accumulated in the school district that has eliminated its high school program and shall be credited for years of service in the school district that has eliminated its high school program for purposes of salary schedule placement. Temporary professional and professional employes shall further be credited for their years of service in the school district that has eliminated its high school program for purposes of sabbatical leave eligibility, suspension and realignment rights and eligibility for any retirement incentives or severance payments in a hiring school district.

\* \* \*

Section 18. The act is amended by adding a section to read:

**Section 1616. Wearing of Military Uniform at Graduation Ceremony.--A student shall have the right to wear a dress uniform issued to the student by a branch of the United States Armed Forces while participating in the graduation ceremony for the student's high school if that student meets the following requirements:**

(1) The student has fulfilled all of the requirements for receiving a high school diploma in this Commonwealth and is otherwise eligible to participate in the graduation ceremony.

**(2) The student has completed basic training for and is an active member of a branch of the United States Armed Forces.**

Section 19. Section 2104 of the act is amended to read:

Section 2104. Superintendents of Schools or Buildings and of Supplies.--The board of public education in each school district of the first class shall, whenever a vacancy in said office shall occur, appoint a district superintendent, who shall be designated and known as superintendent of schools[, for a term of not more than six (6) years]. The board may also appoint a superintendent of buildings and a superintendent of supplies. The board shall prescribe the terms and duties and fix the salaries of each of such employees. They shall be responsible to the board for the conduct of their respective departments, shall make annual reports to the board, and shall from time to time submit such plans and suggestions for the improvement of the schools and the school system as they shall deem expedient or as the board of public education may require.

The superintendent of buildings shall be an engineer or architect of good standing in his profession. The superintendent of buildings and the superintendent of supplies shall each give such security for the faithful performance of the duties of their respective offices as the board of public education shall prescribe.

Section 20. The amendment or addition of sections 1073, 1073.1, 1076, 1077, 1078 and 1080 of the act shall apply to contracts of district superintendents or assistant district superintendents entered into or renewed on or after the effective date of this section.

Section 21. The provisions of Article VI-A of the act are severable. If any provision of that article or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of that article which can be given effect without the invalid provision or application.

Section 22. This act shall take effect as follows:

(1) The amendment or repeal of sections 691, 692, 692.1, 692.2, 693, 694 and 695 of the act shall take effect in 180 days.

(2) The amendment or addition of sections 696, 907-A, 921-A, 1073, 1073.1, 1076, 1077, 1078, 1080, 1616 and 2104 of the act shall take effect in 60 days.

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

APPROVED--The 12th day of July, A.D. 2012.

TOM CORBETT