



## HOUSE COMMITTEE ON APPROPRIATIONS

# FISCAL NOTE

HOUSE BILL NO. 1307

PRINTERS NO. 3771

PRIME SPONSOR: Milne

### COST / (SAVINGS)

FUND	FY 2011/12	FY 2011/12
General Fund	\$0	\$6,000,000

**SUMMARY:** House Bill 1307 amends various sections of the Public School Code concerning elementary schools, fiscally distressed school districts, intermediate unit subsidies for services and financial reports, superintendent contracts, employment pools, and the wearing of military uniforms at graduation ceremonies. Effective dates vary by provision.

**ANALYSIS:** This legislation makes changes to the School Code in the following areas:

#### Elementary Schools

A school district may satisfy the requirement that it operate an elementary school by operating such a school, converting a school building to a charter elementary school, contracting with an education management service provider to operate an elementary school, or paying tuition for students residing in the school district to attend school in another school district upon the agreement of both school districts.

#### Fiscally Distressed School Districts

A new article VI-A is added to the School Code concerning school district financial recovery in all school districts other than Philadelphia.

The Department of Education must develop and implement an early warning system to compile and analyze information on the financial condition of school districts to determine whether a school district should be placed in financial watch status. The department must establish guidelines for the operation of the early warning system, including a description of variables used to identify school districts in financial watch status. The department must notify a school district when it has been identified for financial watch status, and shall request all information necessary from a school district placed in financial watch status to conduct a thorough review of its financial condition and provide technical assistance appropriate to remedy its financial difficulties. The

department may employ or contract with consultants to develop the early warning system and assist the school districts in financial watch status.

The Secretary of Education must issue a declaration of school district financial recovery status if the school district has an average daily membership greater than 7,500 and receives an advance of its basic education funding at any time; or, if the school district receives an advance of its basic education funding at any time and is either subject to a declaration of fiscal distress or engaged in litigation against the Commonwealth in which it is seeking financial assistance. At present, Harrisburg School District and York City School District fall into the first category, which qualifies them as moderate financial recovery school districts and Chester-Upland School District and Duquesne School District fall into the second category, which qualifies them as severe financial recovery school districts.

No more than nine school districts may be under a declaration of financial recovery or in receivership at any time.

The State Board of Education must promulgate regulations within two years of the enactment of this legislation. The regulations will establish criteria which the Secretary may consider in determining whether to issue a declaration of financial recovery status and whether a school district shall be deemed a moderate financial recovery school district or a severe financial recovery school district.

The Commonwealth must ensure the delivery of effective educational services to students enrolled in a school district in financial recovery status.

The Secretary of Education must appoint a Chief Recovery Officer (CRO) for each school district that is declared to be in financial recovery status. The CRO is endowed with certain powers and duties as enumerated in the legislation, chief among them the requirement to develop for the district a financial recovery plan. This plan must meet certain criteria outlined in the legislation.

A school district in financial recovery status or in receivership may exercise certain powers enumerated in the legislation to the extent that the powers are specifically included in the school district's financial recovery plan.

For school districts in moderate financial recovery status, the CRO must develop the financial recovery plan and submit it to the school district within 90 days of the CRO's appointment to the post. Within 30 days of receipt of the plan the district's board must approve or disapprove the plan by majority vote at a public meeting. If approved, the plan must be sent to the Secretary of Education within five days, and the Secretary must approve or disapprove the plan in a written statement within 10 of receipt. If the Secretary disapproves the plan, the CRO is required to make revisions within 20 days. If

the plan is not approved by the school board within 365 days of the declaration of financial recovery status, the Secretary must petition the court of common pleas for the appointment of a receiver.

For school districts in severe financial recovery status, the school board must, within 14 days, adopt a resolution to either cooperate with a CRO in the development, approval, and implementation of a financial recovery plan or appoint a receiver. A failure to vote is deemed a vote to proceed with the appointment of a receiver. A vote to cooperate with a CRO triggers a process for the development and approval of a financial recovery plan similar to the process for a school district in moderate financial recovery status, but with accelerated timeframes.

The Secretary of Education must petition the court of common pleas for the appointment of a receiver if a school district fails to approve a financial recovery plan, fails to implement a plan, fails to achieve the criteria set forth in a plan, or votes to proceed with the appointment of a receiver. The process and conditions for the appointment of a receiver, as well as the receivers powers and duties are detailed in the legislation. The receiver assumes all powers and duties of the school board, including those stated in the financial recovery plan, except for the power to levy and raise taxes.

The process and conditions for termination of financial recovery status or receivership are provided for in the legislation.

A Financial Recovery Transitional Loan Program is established in the Department of Education to provide loans to school districts in financial recovery status that have approved a financial recovery plan. A school district's financial recovery plan constitutes the application for the loan and the Secretary's approval of the plan constitutes the approval of the loan. Loans must be interest free and repayable based on a predetermined schedule. Loans are to be made from moneys in a restricted account established in the department. The account may be funded by annual appropriations for the program, principal payments on loans made under the program, interest earned, and other funds not encumbered or committed from appropriations for grants and subsidies made to the department to assist school districts for the prior year which are authorized for use by the General Assembly on an annual basis. A loan may be suspended if, in the judgment of the Secretary, the school district fails to take all actions necessary to implement its financial recovery plan. A school district receiving a loan may enter into a voluntary contract with a charter school in which the school district students are enrolled, that allows the charter school to assist with repayment of the loan. Loans must be used to implement provisions of the financial recovery plan. Loans are not subject to and are subordinate to indebtedness incurred under the Local Government Unit Debt Act. The total amount of loans may not exceed the amount contained in the fund, a school district may only receive one loan per year, and

nonpayment of a loan will not subject the school district to withholding of subsidies by the department.

### **Intermediate Unit Financial Reports**

This legislation requires the Department of Education to annually prepare a report on the finances of Intermediate Units (IUs), including funds received and contracts and agreements executed by the IUs. The Department will develop the form for reporting the information and post it on the Department's website. The format for IUs must be consistent with what the Department posts for other local education agencies.

### **Superintendent Contracts**

This legislation will require written contracts of employment for district superintendents and assistant superintendents, and details mandatory requirements for those contracts. It also places a cap on the amount of any severance agreement for a superintendent. Superintendent employment contracts may also include written performance measures, mutually agreed upon by the school board and the superintendent. In addition, these contracts are made subject to the Commonwealth's Right-to-Know Law. Another provision requires school boards to disclose at their next public meeting their reasons for termination if they have removed a superintendent or assistant superintendent from office.

### **Employment Pool**

Creates professional and temporary employment pool for employees from a school district where students have been reassigned to another school district. Employees in the pool must be offered employment by any school district receiving students who have been reassigned whenever that school district has a vacancy that a pool employee is certified to fill. The school district receiving students may not hire any new employee until the position has been offered, in order of seniority, to all certified members of the pool. Employees hired from the pool are to be credited with all accumulated sick leave and years of service for the purpose of salary schedule placement. It also provides that employees shall be credited for years of services for the purposes of sabbatical leave eligibility, suspension and realignment rights, and any retirement incentives or severance payments. This employee pool will apply to employees in Duquesne School District.

### **Military Uniforms at Graduation Ceremonies**

A new section, section 1616, Wearing of Military Uniform at Graduation Ceremony is also added to the Public School Code. The section would give a high school student the right to wear a military dress uniform at a graduation ceremony if the student has fulfilled all requirements and is otherwise eligible to participate in the ceremony, and has completed basic training for, and is an active member of, a branch of the United States Armed Forces.

**FISCAL IMPACT:** It is estimated that enactment of this legislation will cost the Commonwealth \$6,000,000 in fiscal year 2012-2013 for costs related to fiscally distressed school districts. This \$6,000,000 includes \$250,000 to develop and implement the early warning system to compile and analyze information on the financial condition of the Commonwealth's 500 school districts, \$250,000 to provide school districts in financial watch status with technical assistance, and \$500,000 for personnel and administrative costs of the department. It also includes \$5,000,000 to pay the salaries and necessary expenses of the chief recovery officers and receivers, legal fees, accounting costs, costs for other consultants and for financial data software systems for the school districts in financial recovery status. This assumes that the Chester-Upland School District, Duquesne School District, Harrisburg School District, and York City School District are the only school districts that will be placed in financial recovery status. To the extent additional school districts are declared to be in financial recovery status costs will increase proportionately. Funding for the Financial Recovery Transitional Loan Program will be dependent on appropriations made by the General Assembly in the General Appropriations Act.

Costs in future fiscal years will depend upon the number of school districts in financial recovery status and the amount of money appropriated by the General Assembly for the Loan Program.

The Department of Education indicates the added reporting requirements concerning IUs will not impact their budget, nor will the changes concerning elementary schools, superintendent contracts, employee pools, and the wearing of military uniforms at graduation will also have no fiscal impact at the state level.

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**DATE:** June 26, 2012

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*