

18:5-50.2

October 23, 1963

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LEGISLATIVE NOTES ON R. S. 18:5-50.2

(Action Against Employee - Board to Furnish Counsel)

Laws 1903, Chapter 1 (2d Special Session)

Laws 1937, Chapter 125 - A-29 - Introduced January 25 by Mr. Ward
Original bill had statement (photostat enclosed). Passed by Committee
Substitute (photostat of bill and statement enclosed).

We found no hearings or reports on this bill.

Laws 1952, Chapter 236 - A-300, sec. 4

This amendment eliminated "supervising principal" and added superintendent of schools.

Laws 1954, Chapter 80 - S-312

This amendment made technical changes.

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ASSEMBLY, No. 29

(P. L. 1903, Supp. Chap. 1, S. S.)

STATE OF NEW JERSEY

INTRODUCED JANUARY 25, 1937

By Mr. WARD

Referred to Committee on Education

A SUPPLEMENT to an act entitled "An act to establish a thorough and efficient system of free public schools and to provide for the maintenance, support and management thereof," approved October nineteenth, one thousand nine hundred and three.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. The board of education in every school district in this State shall
2 cause to be insured, to the extent hereinafter mentioned, all of the teachers,
3 principals, supervisors, and the supervising principal or superintendent in
4 the public schools of said school district against liability for damages to
5 others arising out of or in the course of the employment of said persons.

1 2. The insurance may be issued in the name of the board of education,
2 but its coverage shall be made to include each and every teacher, principal,
3 supervisor, and the supervising principal or superintendent in the employ of
4 said board of education, to the extent of five thousand dollars (\$5,000.00) and
5 the costs of defending any action brought against such persons so insured.

1 3. In case any board of education shall wrongfully neglect to perform
2 the duty imposed upon it by this act, by reason whereof any teacher, principal,
3 supervisor, and the supervising principal or superintendent shall suffer
- 4 damage from which said insurance, if obtained and maintained, should

5 have protected him or her, such employee shall have and may bring an
6 action at law against said board of education and recover judgment therein
7 to the extent of all such damages sustained by him or her as aforesaid.

1 4. This act shall take effect immediately.

STATEMENT

When accidents happen to pupils in the schools, it frequently occurs that the teacher is sued under the contention that she was in some way responsible for the accident whether or not it resulted from her express directions. While at the present time very few cases have held the teacher to be liable, she has been required to pay the legal expense involved in the suit since there was no specific authorization in the law for its payment by the board of education. The purpose of this act is to provide insurance for the teacher's protection.

COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 29

(P. L. 1903, 2nd Sp. Sess., p. 20)

STATE OF NEW JERSEY

ADOPTED MARCH 8, 1937

A SUPPLEMENT to an act entitled "An act to establish a thorough and efficient system of free public schools and to provide for the maintenance, support and management thereof," approved October nineteenth, one thousand nine hundred and three.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. Any teacher, school nurse, school dentist, principal, supervisor, su-
2 pervising principal, superintendent or janitor in any of the public schools
3 of this State, against whom an action in damages is instituted for any act
4 or acts arising out of, or in the course of his or her employment, shall be
5 furnished by his or her employing board of education with legal counsel to
6 advise and defend him or her and, said board of education shall defray the
7 fees and expenses of counsel in such suit; *provided, however,* should such
8 employee decline the services of the counsel provided, then and in that
9 event the employing board shall be relieved of all further responsibility; *and*
10 *be it further provided,* that the employing board may not be required to
11 provide or to defray the fees and expenses of counsel where the suit for
12 damages is instituted on the grounds of the alleged use of corporal punish-
13 ment.

1 2. Should the action instituted result in a verdict against the employee,
2 then and in that event any appeals taken by the said employee must be taken

3 at the cost and expense of the employee; *provided, however*, that if, upon an
4 appeal taken by an employee, the court of higher jurisdiction reverses the
5 decision of the lower court, the cost of such an appeal, including the serv-
6 ices of counsel, reasonable counsel fees and expenses shall be borne by the
7 employing board of education; *and provided, further*, that if the verdict of
8 the court of original jurisdiction is in the employee's favor and the com-
9 plaining person or persons appeals the verdict, then and in this event the
10 employing board shall furnish counsel and defray the fees and expenses of
11 the appeal.

1 3. This act shall take effect immediately.

STATEMENT

When accidents happen to pupils in schools it frequently occurs that the teacher is sued under the contention that he was in some way responsible for the accident, whether or not it resulted from his express direction. While at the present time very few cases have held teachers to be liable they have been required to pay the legal expenses involved in the suit, since there was no specific authorization in the law for its payment by the board of education.

The purpose of this act is to permit boards of education to furnish this protection to its employees.

ASSEMBLY, No. 300

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 4, 1952

By Mr. JONES

Referred to Committee on Education

An Act concerning education, relating to superintendents of schools in school districts, and amending sections 18:2-4, 18:3-19, 18:3-20, 18:5-50.2, 18:6-37, 18:6-38, 18:6-40, 18:6-42, 18:7-70, 18:13-1, 18:13-8, 18:13-16, 18:13-17, 18:13-19, 18:13-20 and 18:14-89, and supplementing Title 18 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. 18:2-4. The State Board may:
 - a. Frame and modify by-laws for its own government, and elect its president and other officers;
 - b. Prescribe and enforce rules and regulations necessary to carry into effect the school laws of this State;
 - c. Prescribe rules and regulations for holding teachers' institutes and teachers' meetings called by the commissioner;
 - d. Decide appeals from the decisions of the commissioner;
 - e. Make and enforce rules and regulations for the granting of appropriate certificates or licenses to teach or to administer, direct, or supervise, the teaching, instruction or educational guidance of pupils in public schools operated by boards of education, for each of which certificates a fee of not less than five dollars (\$5.00) shall be charged.

15 In addition to the other powers conferred by law upon the State Board,
16 it shall:

17 f. Prescribe a uniform and simple system of bookkeeping for use in all
18 school districts, and compel all school districts to use the same;

19 g. Appoint, upon application, a [supervising principal over] superin-
20 tendent of schools in two or more districts whenever in its opinion it is advis-
21 able so to do, and apportion the expense equitably among the districts;

22 h. Withhold or withdraw its approval of any secondary school whenever
23 in its opinion its academic work, location or enrollment and per capita cost
24 of maintenance shall not warrant its establishment or continuance;

25 i. Except as provided by sections 18:14-5 and 18:14-7 of this Title, fix
26 rates to be paid by a district for the tuition of children sent from it to the
27 schools of other districts, when the districts cannot agree among themselves
28 as to the proper rates, and require any districts having the necessary accom-
29 modations to receive pupils from other districts at rates agreed upon or which
30 it may fix in the event of disagreement;

31 j. Compel the production at such time and place within the State as it
32 may designate of any and all books, papers, and vouchers in any way relat-
33 ing to schools or to the receipt or disbursement of school moneys; compel the
34 attendance before it or before any of its committees or before the commis-
35 sioner or one of his assistants at such time and place as it may designate of
36 any member of a board of education or of any person in the employ of a board
37 of education, and suspend from office any person refusing to attend or to sub-
38 mit such books, papers, and vouchers as he may have been directed to
39 produce;

40 k. Issue subpoenas signed by its president and secretary compelling the
41 attendance of witnesses and the production of books and papers in any part
42 of the State before it or before any of its committees or before the commis-
43 sioner or one of his assistants. Any person who shall neglect or refuse to
44 obey the command of the subpoena or who, after appearing, shall refuse to

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Board, 45 be sworn and testify, except such refusal be on grounds recognized by law,
46 shall in either event be liable to a penalty of one hundred dollars (\$100.00)
47 for each offense to be recovered by the State Board of Education in an action
48 of debt. Such penalty when recovered shall be paid into the treasury of the
49 State;

50 l. Advance the education of people of all ages;

51 m. Establish standards of higher education;

52 n. License institutions of higher education as authorized by sections
53 18:20-5, 18:20-6, and 18:20-7 of this Title;

54 o. Approve the basis or conditions for conferring degrees as authorized
55 by sections 18:20-8, 18:20-9, and 18:20-10 of this Title;

56 p. Require from institutions of higher education such reports as may be
57 necessary to enable the State Board to perform the duties imposed upon it
58 by statute;

59 q. Survey the needs for higher education and the facilities available
60 therefor and recommend to the Legislature procedures and facilities to meet
61 such needs;

62 r. Investigate and recommend respecting the needs for facilities and
63 services at the State University of New Jersey as an instrumentality of the
64 State for providing public higher education and thereby to increase the effi-
65 ciency of the public school system of the State, advise with the State Uni-
66 versity of New Jersey regarding its annual budget for services, lands, build-
67 ings, and equipment and jointly with the State University make recommen-
68 dations to the Governor and to the Legislature in support of such budget, and
69 make with the State University contracts in behalf of the State in accord-
70 ance with legislative appropriations;

71 s. Make to the Governor and the Legislature such recommendations as
72 the State Board deems necessary with regard to appropriations that may be
73 required for services, lands, buildings, and equipment to be furnished by in-
74 stitutions of higher education other than the State University of New Jersey,
75 and make contracts in behalf of the State with such institutions in accord-

76 ance with legislative appropriations; *provided*, that no disbursement of
 77 moneys so appropriated shall be made to any such institution or institutions
 78 utilized by the State for the purpose of public higher education, except on
 79 recommendation of the State Board; and the State Board shall see to the ap-
 80 plication of the money for such purposes;

81 t. Exercise visitorial general powers of supervision and control over
 82 such institutions of higher education as may be utilized by the State. Its vis-
 83 itorial general powers of supervision and control are hereby defined as visit-
 84 ing such institutions of higher education to examine into their manner of con-
 85 ducting their affairs and to enforce an observance of their laws and regula-
 86 tions and the laws of the State;

87 u. The State Board shall have all other powers requisite to the perform-
 88 ance of its duties.

1 2. Section 18:3-19 of the Revised Statutes is amended to read as
 2 follows:

3 18:3-19. The commissioner shall from time to time instruct county su-
 4 perintendents and [city] superintendents of schools as to their duties and
 5 the best manner of conducting schools and constructing and furnishing
 6 schoolhouses.

1 3. Section 18:3-20 of the Revised Statutes is amended to read as
 2 follows:

3 18:3-20. The commissioner with the advice and consent of the State
 4 Board shall hold meetings of county superintendents and [city] superinten-
 5 dents of schools at least once in each year for the discussion of school af-
 6 fairs and ways and means of promoting a thorough and efficient system of
 7 education.

1 4. Section 18:5-50.2 of the Revised Statutes is amended to read as
 2 follows:

3 18:5-50.2. Any teacher, school nurse, school dentist, principal, super-
 4 visor, [supervising principal,] superintendent of schools or janitor in any

of the public schools of this State, against whom an action in damages is instituted for any act or acts arising out of, or in the course of his employment, shall be furnished by his employing board of education with legal counsel to advise and defend him and such board of education shall defray the fees and expenses of counsel in such suit; but should such employee decline the services of the counsel provided, then and in that event the employing board shall be relieved of all further responsibility. The employing board may not be required to provide or to defray the fees and expenses of counsel where the suit for damages is instituted on the grounds of the alleged use of corporal punishment.

5. Section 18:6-37 of the Revised Statutes is amended to read as follows:

18:6-37. When a superintendent of schools is appointed, it shall be by a majority vote of all the members of the board for a term not to exceed five years. He shall receive such salary as the board shall determine, which salary shall not be reduced during his employment. [After a period of employment rendered prior or subsequent to April twenty-seventh, one thousand nine hundred and thirty-one, a board may appoint such superintendent either for a term not to exceed five years or without term to continue at the pleasure of the board. Under an employment without term the superintendent may be removed by a majority vote of all the members of the board.] He shall have a seat in the board and the right to speak on all educational matters, but not the right to vote. [Nothing in this section shall be construed as conferring permanent tenure.]

6. Section 18:6-38 of the Revised Statutes is amended to read as follows:

18:6-38. The superintendent of schools shall, when required by the board of education of the district, devote himself exclusively to the duties of his office. He shall have general supervision over the schools of the district, under rules and regulations prescribed by the State Board, and shall examine

7 into their condition and progress and report thereon from time to time as di-
 8 rected by the board of education. He shall have such other powers and per-
 9 form such other duties as may be prescribed by the board of education. He
 10 may appoint and, subject to the provisions of section 18:6-27 of this Title,
 11 may remove clerks in his office, but the number and salaries of such clerks
 12 shall be determined by the board.

1 7. Section 18:6-40 of the Revised Statutes is amended to read as
 2 follows:

3 18:6-40. The board may, on the nomination of the superintendent of
 4 schools, appoint assistant superintendents and shall fix their salaries. As-
 5 sistant superintendents may be removed by a majority vote of all the mem-
 6 bers of the board, subject to the provisions of sections 18:13-16 to 18:13-19
 7 of this Title.

1 8. Section 18:6-42 of the Revised Statutes is amended to read as
 2 follows:

3 18:6-42. The superintendent of schools may, with the approval of
 4 the president of the board, suspend any assistant superintendent, princi-
 5 pal, or teacher, and shall report such suspension to the board forthwith. The
 6 board, by a majority vote of all of its members, shall take such action for the
 7 restoration or removal of such assistant superintendent, principal, or teacher
 8 as it shall deem proper, subject to the provisions of sections 18:13-16 to
 9 18:13-18 of this Title.

1 9. Section 18:7-70 of the Revised Statutes is amended to read as
 2 follows:

3 18:7-70. A board may, under rules and regulations prescribed by the
 4 State Board, appoint a supervising principal superintendent of schools by
 5 a majority vote of all of the members of the board, for a term not to exceed five
 6 years, and define his duties and fix his salary, whenever the necessity for such
 7 appointment shall have been agreed to in writing by the county superin-
 8 tendent of schools and approved by the commissioner and the State Board.

9 No supervising principal superintendent of schools shall be appointed ex-
 10 cept in the manner provided in this section.

11 The appointee shall be a suitable person who holds an appropriate cer-
 12 tificate as prescribed by the State Board of Education, and no person
 13 shall act as supervising principal superintendent of schools or perform the
 14 duties of a supervising principal superintendent of schools, as prescribed
 15 by rules and regulations of the State Board of Education, unless he holds
 16 such a certificate.

17 The boards of two or more districts may unite in employing a supervis-
 18 ing principal superintendent of schools.

19 The superintendent of schools shall have the right to a seat in the board
 20 or boards and the right to speak on all educational matters, but not the right
 21 to vote.

1 10. Section 18:13-1 of the Revised Statutes is amended to read as
 1a follows:

2 18:13-1. There shall be a State Board of Examiners, consisting of the
 3 Commissioner of Education, one assistant commissioner of education, two
 4 presidents of State teachers colleges, a county superintendent of schools, a
 5 city superintendent a supervising principal of schools, appointed pur-
 6 suant to chapter six of this Title and a superintendent of schools appointed
 7 pursuant to chapter seven of this Title, a high school principal, a high school
 8 teacher, a principal of an elementary school, an elementary teacher and a
 9 librarian employed by the State or by one of its political subdivisions. With
 10 the exception of the Commissioner of Education, who shall be chairman of
 11 the board, the members shall be appointed by the commissioner subject to
 12 the approval of the State Board of Education. The State Board of Exam-
 13 iners as herein constituted shall organize not later than September fifteenth
 14 of any year. Members shall hold office for two years from the date of organi-
 15 zation of the board except that in the first appointments one-half of the

16 members shall be appointed for a term of one year. Vacancies in member-
 17 ship shall be filled for the unexpired term in the same manner as for full
 18 terms.

19 All persons appointed to said board other than the commissioner and the
 20 assistant commissioner of education shall receive reimbursement for neces-
 21 sary traveling expenses for attendance upon meetings of said board of
 22 examiners.

23 The board shall grant appropriate certificates to teach or to administer,
 24 direct, or supervise, the teaching, instruction or educational guidance of
 25 pupils in public schools operated by boards of education, and such other
 26 certificates as it shall be authorized to issue by law based upon certified
 27 scholastic records or upon examinations, and revoke the same under rules
 28 and regulations prescribed by the State Board of Education.

29 Nothing contained in this section shall be construed to conflict with the
 30 present existing tenure rights of teachers under sections 18:13-16 to 18:13-19
 31 of this Title.

1 11. Section 18:13-8 of the Revised Statutes is amended to read as
 2 follows:

3 18:13-8. Any contract or engagement between a board of education and
 4 a teacher shall cease and determine and be of no effect against the board
 5 whenever the board shall ascertain by notice in writing received from the
 6 county [or city] superintendent or superintendent of schools of the district,
 7 if any, or otherwise, that the teacher is not in possession of a proper teach-
 8 er's certificate in full force and effect, notwithstanding the term or engage-
 9 ment for which the contract was made may not then have expired.

1 12. Section 18:13-16 of the Revised Statutes is amended to read as
 2 follows:

3 18:13-16. The services of all teachers, principals [and supervising
 4 principals], superintendents and assistant superintendents, of the public
 5 schools, excepting those who are not the holders of proper teachers' certi-

6 ficates in full force and effect, shall be during good behavior and efficiency,
 7 (a) after the expiration of a period of employment of three consecutive calen-
 8 dar years in that district unless a shorter period is fixed by the employing
 9 board, or (b) after employment for three consecutive academic years to-
 10 gether with employment at the beginning of the next succeeding academic
 11 year, or (c) after employment, within a period of any four consecutive
 12 academic years, for the equivalent of more than three academic years, some
 13 part of which must be served in an academic year after July first, one thou-
 14 sand nine hundred and forty; *provided*, that the time any teacher, principal or
 15 supervising principal had taught in the district in which he was employed
 16 at the end of the academic year immediately preceding July first, one thou-
 17 sand nine hundred and forty, shall be counted in determining such period or
 18 periods of employment in that district.

19 An academic year, for the purpose of this section, means the period
 20 between the time school opens in the district after the general summer
 21 vacation until the next succeeding summer vacation.

13. Section 18:13-17 of the Revised Statutes is amended to read as
 2 follows:

3 18:13-17. No teacher, principal, [or supervising principal,] superin-
 4 tendent or assistant superintendent under the tenure referred to in section
 5 18:13-16 of this Title shall be dismissed or subjected to a reduction of sal-
 6 ary in the school district except for inefficiency, incapacity, conduct unbecom-
 7 ing a teacher or other just cause and after a written charge of the cause or
 8 causes has been preferred against him, signed by the person or persons mak-
 9 ing the same, and filed with the secretary or clerk of the board of education
 10 having control of the school in which the service is being rendered, and after
 11 the charge has been examined into and found true in fact by the board of
 12 education upon reasonable notice to the person charged, who may be repre-
 13 sented by counsel at the hearing. Charges may be filed by any person,
 14 whether a member of the school board or not.

14. Section 18:13-19 of the Revised Statutes is amended to read as follows:

18:13-19. Nothing contained in sections 18:13-16 to 18:13-18 of this Title or any other provision of law relating to tenure of service shall be held to limit the right of any board of education to reduce the number of superintendents of schools, [, supervising principals] assistant superintendents, principals or teachers employed in the school district whenever, in the judgment of the board of education it is advisable to abolish any office, position or employment for reasons of a reduction in the number of pupils, economy, a change in the administrative or supervisory organization of the district, or other good cause. Dismissals resulting from such reduction shall not be by reason of residence, age, sex, marriage, race, religion or political affiliation. Any dismissals occurring because of the reduction of the number of persons under the terms of this section shall be made on the basis of seniority according to standards to be established by the Commissioner of Education with the approval of the State Board of Education. In establishing such standards, the commissioner shall classify, in so far as practicable, the fields or categories of administrative, supervisory, teaching or other educational services which are being performed in the school districts of this State and may, at his discretion, determine seniority upon the basis of years of service and experience within such fields or categories of service as well as in the school system as a whole. Whenever it is necessary to reduce the number of persons covered by this section, the board of education shall determine the seniority of such persons according to the standards established by the Commissioner of Education with the approval of the State Board of Education and shall notify each person as to his seniority status. A board of education may request the Commissioner of Education for an advisory opinion with respect to the applicability of the standards to particular situations and all such requests shall be referred to a panel to consist of the county superintendent of schools of the county in which the school district is situate, the secretary of the State Board of Examiners, and one assistant commissioner

32 of education to be designated by the Commissioner of Education. No
 33 determination of any panel shall be binding upon the board of education or
 34 any other party in interest, nor upon the Commissioner of Education and the
 35 State Board of Education in the event of an appeal pursuant to sections
 36 18:3-14 and 18:3-15 of the Revised Statutes. All persons dismissed shall
 37 be placed on a preferred eligible list to be prepared by the board of educa-
 38 tion of the school district, and shall be re-employed by the board of educa-
 39 tion of the school district in order of seniority as determined by the said
 40 board of education. In computing length of service within the district, the
 41 time of service by such superintendents of schools, whether served as super-
 42 intendents of schools, city superintendents or supervising principals, assistant
 43 superintendents, principals or teachers in or with the military or naval
 44 forces of the United States of America or of this State subsequent to
 45 September first, one thousand nine hundred and forty, shall be credited in
 46 determining seniority under this act as though such superintendents, [super-
 47 vising principals,] assistant superintendents, principals or teachers had been
 48 regularly employed within the district during the time of such military
 49 service. Should any superintendent of schools, [supervising principal,]
 50 assistant superintendent, principal or teacher under tenure be dismissed as a
 51 result of such reduction such person shall be and remain upon a preferred
 52 eligible list in the order of seniority for re-employment whenever vacancies
 53 occur and shall be re-employed by the body causing dismissal in such order
 54 when and if a vacancy in a position for which such superintendent, [super-
 55 vising principal,] assistant superintendent, principal or teacher shall be
 56 qualified. Such re-employment shall give full recognition to previous years
 57 of service.
 58 The services of any superintendent of schools, [supervising principal,]
 59 assistant superintendent, principal or teacher may be terminated, without
 60 charge or trial, who is not the holder of an appropriate certificate in full
 61 force and effect issued by the State Board of Examiners under rules and
 62 regulations prescribed by the State Board of Education.

1 15. Section 18:13-20 of the Revised Statutes is amended to read as
2 follows:

3 18:13-20. Any teacher, principal, or [supervising principal,] superin-
4 tendent of schools, under tenure of service, desiring to relinquish his posi-
5 tion, shall give the employing board of education sixty days' written notice
6 of his intention, unless the local board of education shall approve of a release
7 on shorter notice.

8 Any teacher failing to give such notice shall be deemed guilty of
9 unprofessional conduct, and the commissioner may suspend his certificate
10 for a period not exceeding one year.

1 16. Section 18:14-89 of the Revised Statutes is amended to read as
2 follows:

3 18:14-89. Appropriate exercises for the observance of Arbor Day shall
4 be held in all of the public schools, and the several county and [city] super-
5 intendants of schools shall prepare a program of exercises for the schools in
6 their respective jurisdictions.

1 17. The superintendent of schools in districts governed under the provi-
2 sions of chapter seven of Title 18 of the Revised Statutes shall, when
3 required by the board or boards of education of the school district or
4 districts of which he is superintendent, devote himself exclusively to the
5 duties of his office and he shall have the same powers within such district
6 or districts as are conferred by sections 18:6-38 and 18:6-42 of the Revised
7 Statutes upon superintendents of schools in school districts governed under
8 the provisions of chapter six of Title 18 of the Revised Statutes.

1 18. The board or boards of education of any school district or school dis-
2 tricts governed under the provisions of chapter seven of Title 18 of the
3 Revised Statutes having a superintendent of schools may, on the nomination
4 of the superintendent of schools, appoint assistant superintendents and fix
5 their salaries and assistant superintendents may be removed by a majority
6 vote of all of the members of each such board subject to the provisions of
7 sections 18:13-16 to 18:13-19 of the Revised Statutes.

19. On or before August first the superintendent of schools of each district or districts governed under the provisions of chapter seven of Title 18 of the Revised Statutes shall render a report to the Commissioner of Education, in the manner and form prescribed by him, of such matters relating to the schools under the supervision of the superintendent as shall be required by the commissioner.

20. No person employed as a teacher, principal, supervising principal, assistant superintendent or superintendent of the public schools shall be in any manner affected after July first, one thousand nine hundred and fifty-two, in relation to his tenure of service or tenure of service rights obtained or to be obtained, on or prior to said date, pursuant to the provisions of sections 18:13-16 to 18:13-19 of the Revised Statutes or of any other law because of any change, on or after said date, in the method of government in the school district or school districts by which he was employed on said date, or by reason of any change of name or title of the office or position so held by him, on said date, on account of any such change in the method of government of such school district or school districts, but said person shall continue in said office or position by its original or changed name or title, as the case may be, with the same tenure of service and with the same tenure of service rights which he would have had if such change in the method of government had not occurred.

21. Any person serving as assistant superintendent or superintendent of any school district, on July first, one thousand nine hundred and fifty-two, shall be continued in said office or position after said date, with the same tenure of service and tenure of service rights, and any person serving as supervising principal of any school district or school districts as of said date, shall continue in said office or position under the name or title of superintendent of schools of said district or districts after said date, with the same tenure of service and the same tenure of service rights as though the name or title of said office or position had not been so changed, as he was entitled to on said date under sections 18:13-16 to 18:13-19 of the Revised

11 Statutes or under any other law and any time during which any such person
 12 shall have served as supervising principal, assistant superintendent or super-
 13 intendent, in said district or districts, prior to said date, shall be counted in
 14 calculating the period or periods of his employment in such district or dis-
 15 tricts and in determining his tenure of service or tenure of service rights
 16 and pension rights in said offices or positions under sections 18:13-16 to
 17 18:13-19 of the Revised Statutes or under any other law, all notwithstanding
 18 the passage of this act.

1 22. This act shall take effect July first, one thousand nine hundred and
 2 fifty-two.

STATEMENT

Assembly Bill No. 300, with its companion bills, Assembly Bills Nos. 301,
 302, 303 and 304 are designed to bring a substantial measure of uniformity in
 the school law as it applies to the title, powers, duties, and tenure rights of
 the administrative heads of New Jersey school systems.

This bill will give to supervising principals the title of superintendent. By
 also doing it will follow established practice throughout the country. At present
 the administrative heads of chapter seven school districts are called supervis-
 ing principals; administrative heads of chapter six districts are called super-
 intendents. In both instances the work done by supervising principals and
 superintendents is identical. This bill will dignify the job being done by super-
 vising principals by giving them the title of superintendent.

This bill will make uniform the legal powers, duties, and tenure protection
 of the supervising principal and the superintendent. In general the powers
 and duties of the superintendent have been clearly stated in the statutes. The
 bill will state similar powers and duties of the supervising principal whose title
 would change to that of superintendent.

Finally, the bill will clarify and avoid confusion concerning the tenure pro-
 tection of teachers, principals, supervising principals, and superintendents if
 and when a school district should decide to change from a chapter six to a chap-
 ter seven district or vice-versa.

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ASSEMBLY, No. 300

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 4, 1952

By Mr. JONES

Referred to Committee on Education

AN ACT concerning education, relating to superintendents of schools in school districts, and amending sections 18:2-4, 18:3-19, 18:3-20, 18:5-50.2, 18:6-37, 18:6-38, 18:6-40, 18:6-42, 18:7-70, 18:13-1, 18:13-8, 18:13-16, 18:13-17, 18:13-19, 18:13-20 and 18:14-89, and supplementing Title 18 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. 18:2-4. The State Board may:

a. Frame and modify by-laws for its own government, and elect its president and other officers;

b. Prescribe and enforce rules and regulations necessary to carry into effect the school laws of this State;

c. Prescribe rules and regulations for holding teachers' institutes and teachers' meetings called by the commissioner;

d. Decide appeals from the decisions of the commissioner;

e. Make and enforce rules and regulations for the granting of appropriate certificates or licenses to teach or to administer, direct, or supervise, the teaching, instruction or educational guidance of pupils in public schools operated by boards of education, for each of which certificates a fee of not less than five dollars (\$5.00) shall be charged.

15 In addition to the other powers conferred by law upon the State Board,
16 it shall:

17 f. Prescribe a uniform and simple system of bookkeeping for use in all
18 school districts, and compel all school districts to use the same;

19 g. Appoint, upon application, a superintendent of schools in two or
20 more districts whenever in its opinion it is advisable so to do, and appor-
21 tion the expense equitably among the districts;

22 h. Withhold or withdraw its approval of any secondary school whenever
23 in its opinion its academic work, location or enrollment and per capita cost
24 of maintenance shall not warrant its establishment or continuance;

25 i. Except as provided by sections 18:14-5 and 18:14-7 of this Title, fix
26 rates to be paid by a district for the tuition of children sent from it to the
27 schools of other districts, when the districts cannot agree among themselves
28 as to the proper rates, and require any districts having the necessary accom-
29 modations to receive pupils from other districts at rates agreed upon or which
30 it may fix in the event of disagreement;

31 j. Compel the production at such time and place within the State as it
32 may designate of any and all books, papers, and vouchers in any way relat-
33 ing to schools or to the receipt or disbursement of school moneys; compel the
34 attendance before it or before any of its committees or before the commis-
35 sioner or one of his assistants at such time and place as it may designate of
36 any member of a board of education or of any person in the employ of a board
37 of education, and suspend from office any person refusing to attend or to sub-
38 mit such books, papers, and vouchers as he may have been directed to
39 produce;

40 k. Issue subpoenas signed by its president and secretary compelling the
41 attendance of witnesses and the production of books and papers in any part
42 of the State before it or before any of its committees or before the commis-
43 sioner or one of his assistants. Any person who shall neglect or refuse to
44 obey the command of the subpoena or who, after appearing, shall refuse to

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45 be sworn and testify, except such refusal be on grounds recognized by law,
 46 shall in either event be liable to a penalty of one hundred dollars (\$100.00)
 47 for each offense to be recovered by the State Board of Education in an action
 48 of debt. Such penalty when recovered shall be paid into the treasury of the
 49 State;

50 l. Advance the education of people of all ages;

51 m. Establish standards of higher education;

52 n. License institutions of higher education as authorized by sections
 53 18:20-5, 18:20-6, and 18:20-7 of this Title;

54 o. Approve the basis or conditions for conferring degrees as authorized
 55 by sections 18:20-8, 18:20-9, and 18:20-10 of this Title;

56 p. Require from institutions of higher education such reports as may be
 57 necessary to enable the State Board to perform the duties imposed upon it
 58 by statute;

59 q. Survey the needs for higher education and the facilities available
 60 therefor and recommend to the Legislature procedures and facilities to meet
 61 such needs;

62 r. Investigate and recommend respecting the needs for facilities and
 63 services at the State University of New Jersey as an instrumentality of the
 64 State for providing public higher education and thereby to increase the effi-
 65 ciency of the public school system of the State, advise with the State Uni-
 66 versity of New Jersey regarding its annual budget for services, lands, build-
 67 ings, and equipment and jointly with the State University make recommen-
 68 dations to the Governor and to the Legislature in support of such budget, and
 69 make with the State University contracts in behalf of the State in accord-
 70 ance with legislative appropriations;

71 s. Make to the Governor and the Legislature such recommendations as
 72 the State Board deems necessary with regard to appropriations that may be
 73 required for services, lands, buildings, and equipment to be furnished by in-
 74 stitutions of higher education other than the State University of New Jersey,
 75 and make contracts in behalf of the State with such institutions in accord-

76 ance with legislative appropriations; *provided*, that no disbursement of
77 moneys so appropriated shall be made to any such institution or institutions
78 utilized by the State for the purpose of public higher education, except on
79 recommendation of the State Board; and the State Board shall see to the ap-
80 plication of the money for such purposes;

81 t. Exercise visitorial general powers of supervision and control over
82 such institutions of higher education as may be utilized by the State. Its vis-
83 itorial general powers of supervision and control are hereby defined as visit-
84 ing such institutions of higher education to examine into their manner of con-
85 ducting their affairs and to enforce an observance of their laws and regula-
86 tions and the laws of the State;

87 u. The State Board shall have all other powers requisite to the perform-
88 ance of its duties.

1 2. Section 18:3-19 of the Revised Statutes is amended to read as
2 follows:

3 18:3-19. The commissioner shall from time to time instruct county su-
4 perintendents and superintendents of schools as to their duties and
5 the best manner of conducting schools and constructing and furnishing
6 schoolhouses.

7 3. Section 18:3-20 of the Revised Statutes is amended to read as
8 follows:

9 18:3-20. The commissioner with the advice and consent of the State
10 Board shall hold meetings of county superintendents and superintend-
11 ents of schools at least once in each year for the discussion of school af-
12 fairs and ways and means of promoting a thorough and efficient system of
13 education.

14 4. Section 18:5-50.2 of the Revised Statutes is amended to read as
15 follows:

16 18:5-50.2. Any teacher, school nurse, school dentist, principal, super-
17 visor, superintendent of schools or janitor in any of the public
18 schools of this State, against whom an action in damages is in-

stituted for any act or acts arising out of, or in the course of his employment, shall be furnished by his employing board of education with legal counsel to advise and defend him and such board of education shall defray the fees and expenses of counsel in such suit; but should such employee decline the services of the counsel provided, then and in that event the employing board shall be relieved of all further responsibility. The employing board may not be required to provide or to defray the fees and expenses of counsel where the suit for damages is instituted on the grounds of the alleged use of corporal punishment.

5. Section 18:6-37 of the Revised Statutes is amended to read as follows:

18:6-37. When a superintendent of schools is appointed, it shall be by a majority vote of all the members of the board for a term not to exceed five years. He shall receive such salary as the board shall determine, which salary shall not be reduced during his employment. He shall have a seat in the board and the right to speak on all educational matters, but not the right to vote.

6. Section 18:6-38 of the Revised Statutes is amended to read as follows:

18:6-38. The superintendent of schools shall, when required by the board of education of the district, devote himself exclusively to the duties of his office. He shall have general supervision over the schools of the district, under rules and regulations prescribed by the State Board, and shall examine into their condition and progress and report thereon from time to time as directed by the board of education. He shall have such other powers and perform such other duties as may be prescribed by the board of education. He may appoint and, subject to the provisions of section 18:6-27 of this Title, may remove clerks in his office, but the number and salaries of such clerks shall be determined by the board.

7. Section 18:6-40 of the Revised Statutes is amended to read as follows:

3 18:6-40. The board may, on the nomination of the superintendent of
4 schools, appoint assistant superintendents and shall fix their salaries. As-
5 sistant superintendents may be removed by a majority vote of all the mem-
6 bers of the board, subject to the provisions of sections 18:13-16 to 18:13-19
7 of this Title.

1 8. Section 18:6-42 of the Revised Statutes is amended to read as
2 follows:

3 18:6-42. The superintendent of schools may, with the approval of
4 the president of the board, suspend any assistant superintendent, princi-
5 pal, or teacher, and shall report such suspension to the board forthwith. The
6 board, by a majority vote of all of its members, shall take such action for the
7 restoration or removal of such assistant superintendent, principal, or teacher
8 as it shall deem proper, subject to the provisions of sections 18:13-16 to
9 18:13-18 of this Title.

1 9. Section 18:7-70 of the Revised Statutes is amended to read as
2 follows:

3 18:7-70. A board may, under rules and regulations prescribed by the
4 State Board, appoint a superintendent of schools by a majority
5 vote of all of the members of the board, for a term not to exceed five
6 years, and define his duties and fix his salary, whenever the necessity for such
7 appointment shall have been agreed to in writing by the county superin-
8 tendent of schools and approved by the commissioner and the State Board.
9 No superintendent of schools shall be appointed except in the manner pro-
10 vided in this section.

11 The appointee shall be a suitable person who holds an appropriate cer-
12 tificate as prescribed by the State Board of Education, and no person
13 shall act as superintendent of schools or perform the duties of a superin-
14 tendent of schools, as prescribed by rules and regulations of the State
15 Board of Education, unless he holds such a certificate.

16 The boards of two or more districts may unite in employing a super-
17-18 intendent of schools.

19 The superintendent of schools shall have the right to a seat in the board
20 or boards and the right to speak on all educational matters, but not the right
21 to vote.

1 10. Section 18:13-1 of the Revised Statutes is amended to read as
1A follows:

2 18:13-1. There shall be a State Board of Examiners, consisting of the
3 Commissioner of Education, one assistant commissioner of education, two
4 presidents of State teachers' colleges, a county superintendent of schools, a
5 superintendent of schools, appointed pursuant to chapter six of
6 this Title and a superintendent of schools appointed pursuant to
7 chapter seven of this Title, a high school principal, a high school
8 teacher, a principal of an elementary school, an elementary teacher and a
9 librarian employed by the State or by one of its political subdivisions. With
10 the exception of the Commissioner of Education, who shall be chairman of
11 the board, the members shall be appointed by the commissioner subject to
12 the approval of the State Board of Education. The State Board of Exam-
13 iners as herein constituted shall organize not later than September fifteenth
14 of any year. Members shall hold office for two years from the date of organi-
15 zation of the board except that in the first appointments one-half of the
16 members shall be appointed for a term of one year. Vacancies in member-
17 ship shall be filled for the unexpired term in the same manner as for full
18 terms.

19 All persons appointed to said board other than the commissioner and the
20 assistant commissioner of education shall receive reimbursement for neces-
21 sary traveling expenses for attendance upon meetings of said board of
22 examiners.

23 The board shall grant appropriate certificates to teach or to administer,
24 direct, or supervise, the teaching, instruction or educational guidance of
25 pupils in public schools operated by boards of education, and such other
26 certificates as it shall be authorized to issue by law based upon certified
27 scholastic records or upon examinations, and revoke the same under rules

28 and regulations prescribed by the State Board of Education.

29 Nothing contained in this section shall be construed to conflict with the
30 present existing tenure rights of teachers under sections 18:13-16 to 18:13-19
31 of this Title.

1 11. Section 18:13-8 of the Revised Statutes is amended to read as
2 follows:

3 18:13-8. Any contract or engagement between a board of education and
4 a teacher shall cease and determine and be of no effect against the board
5 whenever the board shall ascertain by notice in writing received from the
6 county superintendent or superintendent of schools of the district,
7 if any, or otherwise, that the teacher is not in possession of a proper teach-
8 er's certificate in full force and effect, notwithstanding the term or engage-
9 ment for which the contract was made may not then have expired.

1 12. Section 18:13-16 of the Revised Statutes is amended to read as
2 follows:

3 18:13-16. The services of all teachers, principals, superintendents
4 and assistant superintendents, of the public schools, excepting those
5 who are not the holders of proper teachers' certificates in full
6 force and effect, shall be during good behavior and efficiency,
7 (a) after the expiration of a period of employment of three consecutive calen-
8 dar years in that district unless a shorter period is fixed by the employing
9 board, or (b) after employment for three consecutive academic years to-
10 gether with employment at the beginning of the next succeeding academic
11 year, or (c) after employment, within a period of any four consecutive
12 academic years, for the equivalent of more than three academic years, some
13 part of which must be served in an academic year after July first, one thou-
14 sand nine hundred and forty; *provided*, that the time any teacher, principal or
15 supervising principal had taught in the district in which he was employed
16 at the end of the academic year immediately preceding July first, one thou-
17 sand nine hundred and forty, shall be counted in determining such period or
18 periods of employment in that district.

19 An academic year, for the purpose of this section, means the period
 20 between the time school opens in the district after the general summer
 21 vacation until the next succeeding summer vacation.

1 13. Section 18:13-17 of the Revised Statutes is amended to read as
 2 follows:

3 18:13-17. No teacher, principal, superintendent or assistant super-
 4 intendent under the tenure referred to in section 18:13-16 of this
 5 Title shall be dismissed or subjected to a reduction of salary in
 6 the school district except for inefficiency, incapacity, conduct unbecom-
 7 ing a teacher or other just cause and after a written charge of the cause or
 8 causes has been preferred against him, signed by the person or persons mak-
 9 ing the same, and filed with the secretary or clerk of the board of education
 10 having control of the school in which the service is being rendered, and after
 11 the charge has been examined into and found true in fact by the board of
 12 education upon reasonable notice to the person charged, who may be repre-
 13 sented by counsel at the hearing. Charges may be filed by any person,
 14 whether a member of the school board or not.

1 14. Section 18:13-19 of the Revised Statutes is amended to read as
 2 follows:

3 18:13-19. Nothing contained in sections 18:13-16 to 18:13-18 of this
 4 Title or any other provision of law relating to tenure of service
 5 shall be held to limit the right of any board of education to
 6 reduce the number of superintendents of schools, assistant superintendents,
 7 principals or teachers employed in the school district whenever, in the judg-
 8 ment of the board of education it is advisable to abolish any office, position
 9 or employment for reasons of a reduction in the number of pupils, economy,
 10 a change in the administrative or supervisory organization of the district,
 11 or other good cause. Dismissals resulting from such reduction shall not be
 12 by reason of residence, age, sex, marriage, race, religion or political affilia-
 13 tion. Any dismissals occurring because of the reduction of the number of
 14 persons under the terms of this section shall be made on the basis of seniority

15 according to standards to be established by the Commissioner of Education
 16 with the approval of the State Board of Education. In establishing such
 17 standards, the commissioner shall classify, in so far as practicable, the fields
 18 or categories of administrative, supervisory, teaching or other educational
 19 services which are being performed in the school districts of this State and
 20 may, at his discretion, determine seniority upon the basis of years of service
 21 and experience within such fields or categories of service as well as in the
 22 school system as a whole. Whenever it is necessary to reduce the number of
 23 persons covered by this section, the board of education shall determine the
 24 seniority of such persons according to the standards established by the Com-
 25 missioner of Education with the approval of the State Board of Education
 26 and shall notify each person as to his seniority status. A board of education
 27 may request the Commissioner of Education for an advisory opinion with
 28 respect to the applicability of the standards to particular situations and all
 29 such requests shall be referred to a panel to consist of the county superin-
 30 tendent of schools of the county in which the school district is situate, the
 31 secretary of the State Board of Examiners, and one assistant commissioner
 32 of education to be designated by the Commissioner of Education. No
 33 determination of any panel shall be binding upon the board of education or
 34 any other party in interest, nor upon the Commissioner of Education and the
 35 State Board of Education in the event of an appeal pursuant to sections
 36 18:3-14 and 18:3-15 of the Revised Statutes. All persons dismissed shall
 37 be placed on a preferred eligible list to be prepared by the board of educa-
 38 tion of the school district, and shall be re-employed by the board of educa-
 39 tion of the school district in order of seniority as determined by the said
 40 board of education. In computing length of service within the district, the
 41 time of service by such superintendents of schools, whether served as super-
 42 intendents of schools, city superintendents or supervising principals, assistant
 43 superintendents, principals or teachers in or with the military or naval
 44 forces of the United States of America or of this State subsequent to
 45 September first, one thousand nine hundred and forty, shall be credited in
 46 determining seniority under this act as though such superintendents, assist-

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47 ant superintendents, principals or teachers had been regularly employed
 48 within the district during the time of such military service. Should any
 49 superintendent of schools, assistant superintendent, principal or teacher
 50 under tenure be dismissed as a result of such reduction such person shall be
 51 and remain upon a preferred eligible list in the order of seniority for re-
 52 employment whenever vacancies occur and shall be re-employed by the body
 53 causing dismissal in such order when and if a vacancy in a position for which
 54 such superintendent, assistant superintendent, principal or teacher shall be
 55 qualified. Such re-employment shall give full recognition to previous years
 56 of service.

57 The services of any superintendent of schools, assistant superintendent,
 58 principal or teacher may be terminated, without charge or trial, who is not
 59 the holder of an appropriate certificate in full force and effect issued by
 60 the State Board of Examiners under rules and regulations prescribed by the
 61 State Board of Education.

1 15. Section 18:13-20 of the Revised Statutes is amended to read as
 2 follows:

3 18:13-20. Any teacher, principal, or superintendent of schools, under
 4 tenure of service, desiring to relinquish his position, shall give the
 5 employing board of education sixty days' written notice of his
 6 intention, unless the local board of education shall approve of a release
 7 on shorter notice.

8 Any teacher failing to give such notice shall be deemed guilty of
 9 unprofessional conduct, and the commissioner may suspend his certificate
 10 for a period not exceeding one year.

1 16. Section 18:14-89 of the Revised Statutes is amended to read as
 2 follows:

3 18:14-89. Appropriate exercises for the observance of Arbor Day shall
 4 be held in all of the public schools, and the several county and super-
 5 intendents of schools shall prepare a program of exercises for the schools in
 6 their respective jurisdictions.

1 17. The superintendent of schools in districts governed under the provi-
2 sions of chapter seven of Title 18 of the Revised Statutes shall, when
3 required by the board or boards of education of the school district or
4 districts of which he is superintendent, devote himself exclusively to the
5 duties of his office and he shall have the same powers within such district
6 or districts as are conferred by sections 18:6-38 and 18:6-42 of the Revised
7 Statutes upon superintendents of schools in school districts governed under
8 the provisions of chapter six of Title 18 of the Revised Statutes.

1 18. The board or boards of education of any school district or school dis-
2 tricts governed under the provisions of chapter seven of Title 18 of the
3 Revised Statutes having a superintendent of schools may, on the nomination
4 of the superintendent of schools, appoint assistant superintendents and fix
5 their salaries and assistant superintendents may be removed by a majority
6 vote of all of the members of each such board subject to the provisions of
7 sections 18:13-16 to 18:13-19 of the Revised Statutes.

1 19. On or before August first the superintendent of schools of each dis-
2 trict or districts governed under the provisions of chapter seven of Title 18
3 of the Revised Statutes shall render a report to the Commissioner of Educa-
4 tion, in the manner and form prescribed by him, of such matters relating to
5 the schools under the supervision of the superintendent as shall be required
6 by the commissioner.

1 20. No person employed as a teacher, principal, supervising principal,
2 assistant superintendent or superintendent of the public schools shall be in
3 any manner affected after July first, one thousand nine hundred and fifty-
4 two, in relation to his tenure of service or tenure of service rights obtained
5 or to be obtained, on or prior to said date, pursuant to the provisions of
6 sections 18:13-16 to 18:13-19 of the Revised Statutes or of any other law
7 because of any change, on or after said date, in the method of government in
8 the school district or school districts by which he was employed on said
9 date, or by reason of any change of name or title of the office or position so
10 held by him, on said date, on account of any such change in the method of

11 government of such school district or school districts, but said person shall
 12 continue in said office or position by its original or changed name or title,
 13 as the case may be, with the same tenure of service and with the same tenure
 14 of service rights which he would have had if such change in the method of
 15 government had not occurred.

1 21. Any person serving as assistant superintendent or superintendent of
 2 any school district, on July first, one thousand nine hundred and fifty-two,
 3 shall be continued in said office or position after said date, with the same
 4 tenure of service and tenure of service rights, and any person serving as
 5 supervising principal of any school district or school districts as of said
 6 date, shall continue in said office or position under the name or title of
 7 superintendent of schools of said district or districts after said date, with
 8 the same tenure of service and the same tenure of service rights as though
 9 the name or title of said office or position had not been so changed, as he was
 10 entitled to on said date under sections 18:13-16 to 18:13-19 of the Revised
 11 Statutes or under any other law and any time during which any such person
 12 shall have served as supervising principal, assistant superintendent or super-
 13 intendent, in said district or districts, prior to said date, shall be counted in
 14 calculating the period or periods of his employment in such district or dis-
 15 tricts and in determining his tenure of service or tenure of service rights
 16 and pension rights in said offices or positions under sections 18:13-16 to
 17 18:13-19 of the Revised Statutes or under any other law, all notwithstanding
 18 the passage of this act.

1 22. This act shall take effect July first, one thousand nine hundred and
 2 fifty-two.