SENATE . . . . . No. 2315

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act providing for the implementation of education evaluation systems in school districts.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The purpose of this act is to assure the effective implementation of the education evaluation system adopted by the board of elementary and secondary education by providing training for teachers and administrators in evaluation and supervision; to assure that indicators of job performance as evidenced by evaluation and other factors are the primary factors in school staffing decisions; and to create a system of data collection to assess the effectiveness of the evaluation system in achieving its purposes.

SECTION 2. Section 1I of chapter 69 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the fifth paragraph the following paragraph:-

The board shall establish and maintain a data system to collect information from school districts for the purpose of assessing the effectiveness of district evaluation systems in assuring effective teaching and administrative leadership in the public schools. Such information shall be made available in the aggregate to the public; provided, however, that any data or information that school districts, the department or both create, send or receive in connection with educator evaluation that is evaluative in nature and which may be linked to an individual educator, including information concerning an educator's formative assessment or evaluation or summative evaluation or performance rating or the student learning, growth and achievement data that may be used as part of an individual educator's evaluation, shall be considered personnel information within the meaning of subclause (c) of clause Twenty-sixth of section 7 of chapter 4 and shall not be subject to disclosure under said clause Twenty-sixth of said section 7 of said chapter 4 or under section 10 of chapter 66.

SECTION 3. Section 42 of chapter 71 of the General Laws, as so appearing, is hereby amended by striking out the seventh paragraph and inserting in place thereof the following paragraph:-

Nothing in this section or section 41 shall affect the right of a superintendent to lay off teachers pursuant to reductions in force or reorganization resulting from declining enrollment or other budgetary reasons. No teacher with professional teacher status shall be laid off pursuant to a reduction in force or reorganization if there is a teacher without such status for whose position the covered employee is currently certified or if there is a less qualified teacher with such status holding the same or similar position for which the covered employee is currently certified. No teacher with such status shall be displaced in accordance with the terms of a collective bargaining agreement or otherwise by a more senior teacher with such status unless the more senior teacher is currently certified pursuant to section 38G and is at least as qualified for the position as the junior teacher holding the position. The criteria for determining a qualified teacher under this paragraph shall be subject to the collective bargaining provisions of chapter 150E; provided, however, that any such collectively bargained for qualifications shall include, as the primary factors, indicators of job performance, including overall ratings resulting from comprehensive evaluations conducted consistent with section 38 and the best interests of the students in the school or district; and provided further, that for the purposes of this paragraph, no distinction shall be made between the overall performance ratings established by the board of elementary and secondary education finding that the teacher has met or exceeded acceptable performance standards developed under said section 38 and that are defined by the board as proficient and exemplary. The school committee and the collective bargaining representative may negotiate for seniority or length of service only as a tie-breaker in personnel actions under this paragraph among teachers whose qualifications are no different using the qualifications collectively bargained for in accordance with this paragraph.

SECTION 4. Section 59B of said chapter 71, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The superintendent of a school district shall appoint principals for each public school within the district at levels of compensation determined in accordance with policies established by the school committee. Principals employed under this section shall be the educational administrators and managers of their schools and shall supervise the operation and management of their schools and school property, subject to the supervision and direction of the superintendent. Principals employed under this section shall be responsible, consistent with district personnel policies and budgetary restrictions and subject to the approval of the superintendent, for hiring all teachers, athletic coaches, instructional or administrative aides and other personnel assigned to the school and for terminating all such personnel, subject to review and prior approval by the superintendent and subject to this chapter. Prior to any assignment to a school of a teacher previously employed in another school in the district including, but not limited to, voluntary transfer, involuntary transfer, reduction in force, and recall, the superintendent shall consult in good faith with the principal concerning the assignment and application of any collectively bargained for selection criteria. In the case of an assignment in connection with the involuntary transfer or recall of a teacher to another school, any collectively

64 bargained for selection criteria shall include the factors set forth in the seventh paragraph of
65 section 42. The principal of any school which requires an examination for student admission
66 shall be solely and exclusively responsible for hiring all teachers, instructional or administrative
67 aides and other personnel and for terminating all such personnel without the requirement of
68 review or prior approval by the superintendent before such hiring or termination. This section
69 shall not prevent a person from serving as the principal of 2 or more elementary schools or the
70 use of teaching principals in such schools.

71 SECTION 5. In order to fund the evaluation training program developed by the
72 department of elementary and secondary education for all evaluators and for all teachers,
73 principals and administrators required to be evaluated under section 38 of chapter 71 of the
74 General Laws in school districts participating in the commonwealth's Race to the Top activities,
75 the department of elementary and secondary education shall pay $3,500,000 of the cost of
76 providing training for evaluators and school teams, consistent with the approved Race to the Top
77 grant, and districts shall pay the additional costs for school team training and the costs associated
78 with providing training for evaluators. The additional district funding required to implement
79 school team and evaluator training is estimated at $5,000,000 for fiscal year 2013. Consistent
80 with federal law, the department of elementary and secondary education shall encourage districts
81 to use federal Title II-A grant funds, in addition to any other available funds, for such training.
82 The department of elementary and secondary education shall require all such districts to develop
83 and submit, in coordination with each district's annual Title II-A needs assessment, a plan for
84 funding the training required to implement the educator evaluation system using available local,
85 state and federal funds. The department shall review and approve such plans. Beginning in
86 school year 2012-2013, any such district that has not already commenced an evaluation training
87 program shall not require teachers to be evaluated until the district has published an evaluation
88 training schedule for teachers, principals and administrators who are required to be evaluated
89 under said section 38 of said chapter 71. Each such district shall publish a training schedule not
90 later than October 1, 2012. The department shall submit a report to the chairs of the joint
91 committee on education not later than December 31, 2012 describing how such training is being
92 funded by the commonwealth and the districts.

93 SECTION 6. All school districts required to adopt and implement evaluation systems
94 consistent with 603 CMR 35.00 for the 2013-2014 school year shall provide an evaluation
95 training program developed by the department of elementary and secondary education for all
96 evaluators and for all teachers, principals and administrators required to be evaluated under
97 section 38 of chapter 71. The district funding required to train school teams and evaluators in
98 school districts required to implement evaluation systems for the 2013-2014 school year is
99 estimated at $5,200,000 for fiscal year 2014. Consistent with federal law, the department of
100 elementary and secondary education shall encourage such districts to use federal Title II-A grant
101 funds, in addition to any other available funds, for such training. The department of elementary
102 and secondary education shall require all such districts to develop and submit, in coordination

103 with each district's annual Title II-A needs assessment, a plan for funding the training required to
104 implement the educator evaluation system, using available local, state, and federal funds. The
105 department shall review and approve such plans. Beginning in the school year 2013-2014, any
106 such district that has not already commenced an evaluation training program shall not require
107 teachers to be evaluated until the district has published an evaluation training schedule for
108 teachers, principals, and administrators who are required to be evaluated under said section 38 of
109 said chapter 71. Each such district shall publish a training schedule not later than October 1,
110 2013. The department shall submit a report to the chairs of the joint committee on education not
111 later than December 31, 2013 describing how such training is being funded by the
112 commonwealth and the districts.

113 SECTION 7. Notwithstanding any other general or special law to the contrary and for the
114 purposes of assuring adequate resources for implementing an evaluation training program for
115 teachers and administrators in every school district, districts implementing the new evaluation
116 system in fiscal year 2013 shall allocate some or all of its fiscal year 2013 chapter 70
117 professional development allotment in fiscal year 2013 to implement an evaluation training
118 program for all teachers and administrators. Districts implementing the new evaluation system
119 in fiscal year 2014 shall allocate some or all of its chapter 70 professional development allotment
120 in fiscal year 2014 to implement an evaluation training program for teachers and administrators.

121 SECTION 8. There shall be established a board of elementary and secondary education
122 educator evaluation data advisory committee which shall consist of the commissioner of
123 elementary and secondary education or a designee, who shall serve as chair, the secretary of
124 education or a designee, the senate and house chairs of the joint committee on education or their
125 respective designees and 9 persons to be appointed by the governor from among the
126 organizations which participated in the educator evaluation task force. The committee shall
127 provide recommendations to the board of elementary and secondary education concerning what
128 information shall be collected for the purpose of assessing the effectiveness of district evaluation
129 systems in assuring effective teaching and administrative leadership in public schools and how
130 such information shall be made available to the public. Such information may include surveys of
131 teachers and administrators and data related to implementation of the district evaluation system
132 and the district evaluation training program, percentage of staff evaluated, the number of
133 teachers granted professional teacher status, the number of teachers and administrators
134 voluntarily and involuntarily leaving employment in the district, the percentage of teachers and
135 administrators in each performance ranking and data tracking aggregate changes in performance
136 ranking. The committee shall file a report not later than December 31, 2012 with the clerks of the
137 senate and house of representatives who shall forward it to the joint committee on education. The
138 report shall include recommendations to the board concerning the information to be collected
139 annually, how such information shall be made available to the public annually and the
140 advisability of engaging a researcher to study the data and provide a report to the board, together
141 with suggested questions and focus for such research.

142 SECTION 9. Sections 2 and 3 shall take effect on September 1, 2016; provided, however,
143 that collective bargaining agreements negotiated after the effective date of this act shall be
144 subject to said sections 2 and 3 on and after September 1, 2016.