

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1944 Session of
1989

INTRODUCED BY COY, SCHULER, COWELL, COLAFELLA, DALEY, BATTISTO,
WASS, KOSINSKI, DAVIES, LESCOVITZ, COLAIZZO, BILLOW, SEMMEL,
MORRIS, PESCI, TIGUE, VAN HORNE, WAMBACH, MELIO, HAYES,
CAWLEY, VEON, MAIALE, HOWLETT, BELARDI, NOYE, FARGO,
CORRIGAN, BELFANTI, BUSH, STEIGHNER, RUDY, HERMAN, NAHILL,
J. TAYLOR AND DeWEESE, OCTOBER 4, 1989

REFERRED TO COMMITTEE ON EDUCATION, OCTOBER 4, 1989

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," further providing for the State
6 System of Higher Education to act as both lessor and lessee
7 of property; providing for the issuance of bonds; and making
8 repeals.

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

11 Section 1. Section 2001-A(19) of the act of March 10, 1949
12 (P.L.30, No.14), known as the Public School Code of 1949, is
13 repealed.

14 Section 2. Section 2003-A of the act, added November 12,
15 1982 (P.L.660, No.188), is amended to read:

16 Section 2003-A. Purposes and General Powers.--(a) The State
17 System of Higher Education shall be part of the Commonwealth's
18 system of higher education. Its purpose shall be to provide high
19 quality education at the lowest possible cost to the students.

1 The primary mission of the system is the provision of
2 instruction for undergraduate and graduate students to and
3 beyond the master's degree in the liberal arts and sciences and
4 in applied fields, including the teaching profession. Graduate
5 instruction at the doctoral level, except for doctoral programs
6 provided for in the act of December 16, 1965 (P.L.1113, No.430),
7 known as the "Indiana University of Pennsylvania Act," only may
8 be offered jointly with Indiana University or an institution
9 chartered to offer work at the doctoral level. Programs of
10 research and service may be provided which are approved by the
11 Board of Governors, and which are consistent with the primary
12 mission of the system. Each institution shall provide
13 appropriate educational facilities, student living facilities
14 and such other facilities as deemed necessary by the board.

15 (b) The system is hereby granted and shall have and may
16 exercise all the powers necessary or convenient for the carrying
17 out of the aforesaid purposes, including, but without limiting
18 the generality of the foregoing, the following rights and
19 powers:

20 (1) To have perpetual existence as a corporation.

21 (2) To adopt, use and alter at will a corporate seal.

22 (3) To acquire, purchase, hold, lease as lessee and use any
23 property, real, personal or mixed, tangible or intangible, or
24 any interest therein, lease as lessor any property, real,
25 personal or mixed, tangible or intangible, necessary or
26 desirable for carrying out the purposes of the system, and to
27 sell, [lease as lessor,] transfer and dispose of any property
28 [other than real property], real, personal or mixed, tangible or
29 intangible, or any interest therein at any time acquired by it
30 and to take, demand, receive and possess all moneys, real

1 property and goods which shall be appropriated, given or granted
2 to for the use of the system and to apply the same according to
3 the will of the donors; and by gift, purchase or devise to
4 receive, possess, enjoy and retain forever any and all real and
5 personal estate and funds, of whatsoever kind, nature or quality
6 the same may be, in special trust and confidence that the same,
7 and the profits thereof, shall be applied to and for the use and
8 purpose of endowing the system, and shall have power to receive
9 donations from any source whatever, to be exclusively devoted to
10 the purposes of the system or according to the terms of
11 donation: Provided, however, That the system shall have no power
12 at any time or in any manner, to pledge the credit or taxing
13 power of the Commonwealth, nor shall any of its obligations or
14 debts be deemed to be obligations of the Commonwealth, nor shall
15 the Commonwealth be liable for the payment of principal or
16 interest on such obligations. Nothing herein shall empower the
17 Board of Governors or the chancellor to take or receive any
18 moneys, goods or other property, real or personal, which is
19 given or granted to specific institutions.

20 (4) To undertake construction, repair, renovation and
21 maintenance projects and the administration thereof, and to
22 retain design, engineering, project management and other
23 professional services in connection therewith. Retention of
24 professional services shall be accomplished by a merit selection
25 process. All other contracts in excess of five thousand dollars
26 (\$5,000) shall be competitively bid. Project designs shall be
27 filed with the Department of General Services for projects to be
28 erected on lands owned by the Commonwealth and projects
29 involving existing facilities erected by the Department of
30 General Services. The Department of General Services shall have

sixty (60) days to review such plans and advise the system regarding their conformity to published standards. Nothing in this clause shall be construed as amending, repealing or otherwise modifying the provisions of the act of May 1, 1913 (P.L.155, No.104), entitled "An act regulating the letting of certain contracts for the erection, construction, and alteration of public buildings," or the act of August 15, 1961 (P.L.987, No.442), known as the "Pennsylvania Prevailing Wage Act."

(5) To transfer and convey any easements or licenses necessitated by any construction project which has been previously authorized by the Board of Governors.

(6) To borrow money, make and issue negotiable notes, bonds, refunding bonds and other evidences of indebtedness or obligations (herein called "bonds") of the system, subject to all of the following conditions and limitations:

(i) The bonds shall have a maturity date not longer than forty (40) years from the date of issue.

(ii) The system, by pledge or deed of trust of all or any of its revenues and receipts, may secure the payment of such bonds or any part thereof.

(iii) The system may make such agreements with the purchasers or holders of such bonds, or with others in connection with any such bonds, whether issued or to be issued, as the system shall deem advisable.

(iv) The system shall provide for the security for the bonds and the rights of the holders thereof.

(v) The system shall not issue bonds if, on the date of issuance, the aggregate principal amount of bonds to be outstanding shall exceed one hundred per centum (100%) of the system's average gross revenues for the three (3) fiscal years

preceding the fiscal year in which bonds are proposed to be issued, except that leases, capitalized or otherwise, entered into by the system, as lessee, in connection with the acquisition of real and personal property shall not be considered bonds for the purposes of these limitations.

(vi) The system shall have no power, at any time or in any manner, to pledge the credit or taxing power of the Commonwealth, nor shall any of the bonds or debts of the system be deemed to be obligations of the Commonwealth, nor shall the Commonwealth be liable for the payment of principal or interest on such bonds or other obligations.

(c) Collective bargaining agreements in force at the time of enactment of this act shall remain in force for the term of the contract. New collective bargaining agreements with professional employees shall be negotiated on behalf of the system by the chancellor. The board shall make a coalition bargaining arrangement with the Commonwealth for the negotiation of new collective bargaining agreements with noninstructional employees.

Section 3. Section 2003-A.1 of the act is repealed.

Section 4. Section 2005-A of the act is amended by adding a clause to read:

Section 2005-A. The Chancellor.--The chief executive officer of the system shall be a chancellor, who shall be employed by the board in accordance with clause (1) of section 2006-A. In addition to those prescribed by the board, the chancellor shall have the following duties:

* * *

(12) The chancellor shall take all necessary action in connection with issuance of bonds and other indebtedness authorized by section 2003-A.

Section 5. Section 2006-A(a)(9) of the act, added November 12, 1982 (P.L.660, No.188), is amended and the subsection is amended by adding a clause to read:

Section 2006-A. Powers and Duties of the Board of Governors.--(a) The Board of Governors shall have overall responsibility for planning and coordinating the development and operation of the system. The powers and duties of the Board of Governors shall be:

* * *

(9) To recommend approval or disapproval of all system building projects funded by appropriations provided in accordance with Article XVI-B of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," to the Secretary of the Budget [and Administration].

* * *

(16) To take all necessary action in connection with issuance of bonds and other evidences of indebtedness authorized by section 2003-A.

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Section 6. The act is amended by adding a section to read:

Section 2006.1-A. Powers and Duties Relating to Bonds.--(a) The bonds of the system authorized to be issued shall:

(1) Be authorized by resolution of the Board of Governors of the system.

(2) Be of such series, bear such date or dates, mature at such time or times, not exceeding forty (40) years from their respective dates.

(3) Bear interest, payable at such times and at such rate or rates, as shall be determined by the board as necessary to issue and sell the authorized bonds.

1 (4) Be in such denominations, in such form, either coupon or
2 fully registered without coupons, and carry such registration,
3 exchangeability and interchangeability privileges as the board
4 shall determine.

5 (5) Be payable in such medium of payment and at such place
6 or places as the system shall determine.

7 (6) Be subject to such terms of redemption and be entitled
8 to such priorities in the revenues or receipts of the system as
9 such resolution or resolutions may provide.

10 (b) The bonds shall be signed by or shall bear the facsimile
11 signature of such officers as the board shall determine. Coupon
12 bonds shall have attached thereto interest coupons bearing the
13 facsimile signature of the Chief Fiscal Officer of the system.
14 All bonds shall be authenticated by an authenticating agent,
15 fiscal agent or trustee, as may be prescribed in such resolution
16 or resolutions.

17 (c) Any such bonds may be issued and delivered,
18 notwithstanding that one or more of the officers signing such
19 bonds or the facsimile or whose signature shall be upon such
20 bonds, the coupons, or any thereof, shall have ceased to be such
21 officer or officers at the time when such bonds shall actually
22 be delivered.

23 (d) The bonds may be sold at public or private sale for such
24 price or prices and at such rate of interest as the board shall
25 determine.

26 (e) Pending the preparation of the definitive bonds, interim
27 receipts may be issued to the purchaser of such bonds and may
28 contain such terms and conditions as the system may determine.

29 (f) Any resolution or resolutions authorizing any bonds may
30 contain provisions which shall be part of the contract with the

holders thereof as to:

(1) The terms and provisions of the bonds.

(2) Limitations on the purposes to which the proceeds of the bonds then or thereafter to be issued, or of any loan or grant by the United States, may be applied.

(3) The setting aside of reserves or sinking funds and the regulation and disposition thereof.

(4) Limitations on the issuance of additional bonds.

(5) The terms and provisions of any deed of trust or indenture securing the bonds, or under which the same may be issued.

(6) Any other or additional agreements with the holder of the bonds.

(g) The system may enter into any deeds of trust indentures or other agreements, with any bank or trust company, or other person or persons in the United States having power to enter into the same, including any Federal agency, as security for such bonds, and may assign and pledge all or any of the revenues or receipts of the system thereunder. The deed of trust, indenture or other agreement may contain such provisions as may be customary in such instruments, or as the system may authorize, including, but without limitation, provisions as to:

(1) The construction, improvement, operation, maintenance and repair of any project, and the duties of the system with reference thereto.

(2) The application of funds and the safeguarding of funds on hand or on deposit.

(3) The rights and remedies of said trustee and the holders of the bonds, (which may include restrictions upon the individual right of action of such bondholders).

1 (4) The terms and provisions of the bonds or the resolutions
2 authorizing the issuance of the same.

3 (h) Except to the extent that the rights herein given may be
4 restricted by resolution passed before the issuance of the
5 bonds, or by the trust indenture, any holder of bonds issued
6 under the provisions of this section, or any of the coupons
7 attached thereto, and the trustee under the trust indenture, if
8 any, may either at law or in equity, by suit, action, mandamus
9 or other proceedings, protect and enforce any and all rights
10 granted hereunder or under such resolution or trust indenture
11 and may enforce and compel performance of all duties required by
12 this act or by such resolution or trust indenture to be
13 performed by the system or any officer thereof.

14 (i) All system bonds shall have all the qualities of
15 negotiable instruments under the law merchant and the negotiable
16 instruments law of the Commonwealth of Pennsylvania.

17 (j) The accomplishment by the system of the authorized
18 purposes stated in this article being for the benefit of the
19 people of the Commonwealth and for the improvement of their
20 education and prosperity, in which accomplishment the system
21 will be performing essential governmental functions, the system
22 shall not be required to pay any taxes or assessments on any
23 property acquired or used by it for the purposes provided in
24 this article, and the bonds, notes or other obligations issued
25 by the system, their transfer and the income therefrom,
26 including any profits made on the sale thereof, shall at all
27 times be free from taxation within the Commonwealth.

28 Section 7. This act shall take effect in 60 days.