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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1275 Session of  
2014

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INTRODUCED BY TOMLINSON AND DINNIMAN, MARCH 12, 2014

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REFERRED TO EDUCATION, MARCH 12, 2014

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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," in the State System of Higher  
6 Education, further providing for definitions, for powers and  
7 duties of the Board of Governors, for powers and duties of  
8 councils of trustees and for method of disposition and  
9 consideration by the General Assembly, and providing for  
10 transfer from the State System of Higher Education; and  
11 providing for transfer institutions.

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

14 Section 1. Section 2001-A of the act of March 10, 1949  
15 (P.L.30, No.14), known as the Public School Code of 1949, is  
16 amended by adding clauses to read:

17 Section 2001-A. Definitions.--The following words and  
18 phrases when used in this article shall, for the purpose of this  
19 article, have the following meanings, respectively, except in  
20 those instances where the context clearly indicates a different  
21 meaning:

22 \* \* \*

23 (22) "Transfer institution" shall mean an institution that

1 has transferred from a State-owned institution to a State-  
2 related institution.

3 (23) "State-owned institution" shall mean an institution  
4 that is part of the State System of Higher Education.

5 Section 2. Sections 2006-A(a) and 2009-A of the act are  
6 amended by adding clauses to read:

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

12 \* \* \*

13 (13.2) To receive an institution's resolution to transfer  
14 from the system.

15 \* \* \*

16 Section 2009-A. Powers and Duties of Councils of Trustees.--  
17 In accordance with the rules and regulations adopted by the  
18 board, the council of each institution shall have the power and  
19 its duty shall be:

20 \* \* \*

21 (14) By resolution adopted by the council to authorize the  
22 institution's transfer from the system in accordance with  
23 section 2021-A.

24 Section 3. Section 2018-A of the act is amended by adding a  
25 subsection to read:

26 Section 2018-A. Method of Disposition; Consideration by the  
27 General Assembly.--\* \* \*

28 (h) This section shall not apply to property contained in a  
29 resolution to transfer under section 2021-A.

30 Section 4. The act is amended by adding a section to read:

1 Section 2021-A. Transfer From the System.--(a) By  
2 resolution of a council of trustees, an institution may transfer  
3 from the system. In order to qualify for a transfer, an  
4 institution must meet all of the following:

5 (1) Have a student enrollment over seven thousand (7,000).

6 (2) Have an unqualified audit opinion, also known as an  
7 unmodified opinion, for the preceding three (3) years.

8 (3) Have the financial ability to compensate the  
9 Commonwealth for the depreciated value of the property.

10 (4) Continue to contribute the employer share for pension  
11 obligations, as determined by the Public School Employees'  
12 Retirement System and the State Employees' Retirement System.

13 (b) Once the resolution and qualifying documents are  
14 submitted to the chancellor, the chancellor shall notify the  
15 Governor, the Board of Governors, the Department of General  
16 Services and the Department of Education, within seven (7) days,  
17 of the resolution for transfer. The chancellor shall publish the  
18 resolution of transfer in the Pennsylvania Bulletin. Within  
19 fourteen (14) days of notification, the chancellor shall  
20 initiate a timeline, in agreement with the institution's council  
21 of trustees, or its designee, for establishing the transfer  
22 process. The final agreement shall be a signed legal document  
23 detailing the terms of the transfer and shall be completed  
24 within thirty (30) days of notification. If the transfer  
25 institution and the system fail to agree to a transfer agreement  
26 within thirty (30) days, the transfer institution and the system  
27 shall submit to mediation and shall be prohibited from  
28 litigation. Each party shall submit a list of three (3) names of  
29 individuals from the American Arbitration Association and agree  
30 to a mediator from a submitted list or, in the event of a

1 failure to agree, seek selection of a mediator from the court of  
2 common pleas in the county where the institution is situated.  
3 The mediator shall convene the parties to complete the transfer  
4 plan within thirty (30) days of the mediator's selection.

5 (c) Upon finalization of the transfer process, the transfer  
6 institution shall declare its name and shall be deemed a State-  
7 related university.

8 (d) The transfer institution shall continue to receive the  
9 appropriation for its operational cost at a minimum in the  
10 amount allocated to the institution in the fiscal year preceding  
11 the council of trustees' approval of transfer. These funds shall  
12 be removed in whole from the system appropriation and  
13 appropriated in a separate appropriation act each year to the  
14 transfer institution. In addition, all assets of the university  
15 as identified in the transfer institution's most recent  
16 financial audit and financial statements shall remain with and  
17 be the property of the transfer institution.

18 (e) Collective bargaining agreements in force at the time of  
19 the transfer shall remain in force for the term of the  
20 contracts. New collective bargaining agreements with  
21 professional employes and noninstructional employes shall be  
22 negotiated by the transfer institution's council of trustees.

23 (f) The transfer institution shall own and maintain land,  
24 buildings and other facilities which are used, together with  
25 land and buildings owned by the Commonwealth, for higher  
26 education, which land, buildings and other facilities are under  
27 the entire control and management of the board of trustees.

28 (g) The following procedure shall apply to the transfer of  
29 any State-owned land, buildings and other facilities from the  
30 Commonwealth to a transfer institution:

1       (1) The transfer institution shall pay the Commonwealth for  
2 the depreciated value of the State-owned land, buildings and  
3 other facilities on the university's campus as determined by the  
4 Office of the Budget for the year in which the council of  
5 trustees approves the transfer.

6       (2) Funding for construction projects and other capital  
7 improvements by the transfer institution previously approved by  
8 the Commonwealth and allocated directly by the Commonwealth or  
9 through the system to the transfer institution shall be paid to  
10 the transfer institution. The amount of these funds will be  
11 added to the depreciated value of the State-owned land,  
12 buildings and other facilities to establish the total amount  
13 that the transfer institution will repay the Commonwealth.

14       (3) Funds repaid by the transfer institution shall be  
15 distributed in the following manner:

16       (i) seventy percent (70%) to the system; and

17       (ii) thirty percent (30%) to the transfer institution to  
18 provide financial aid to Pennsylvania residents attending the  
19 transfer institution.

20       (4) The transfer institution shall make payments directly to  
21 the Commonwealth over a period of up to thirty (30) years in  
22 order to reimburse the Commonwealth for the depreciated value of  
23 the State-owned land, buildings and other facilities.

24       (5) The transfer institution shall bear the responsibility  
25 for the indebtedness.

26       (h) The charter of the transfer institution shall be amended  
27 by changing the university name as recommended by the transfer  
28 institution. The transfer institution shall continue as a  
29 nonprofit corporation for the same purposes as, and with all  
30 rights and privileges granted to the university prior to its

1 decision to transfer.

2 Section 5. The act is amended by adding an article to read:

3 ARTICLE XX-B.1

4 TRANSFER INSTITUTIONS

5 Section 2001-B.1. Definitions.

6 The following words and phrases when used in this article  
7 shall have the meanings given to them in this section unless the  
8 context clearly indicates otherwise:

9 "Chancellor." The chief executive officer of the State  
10 System of Higher Education.

11 "State-owned institution." An institution that is part of  
12 the State System of Higher Education under Article XX-A.

13 "State-related institution." The Pennsylvania State  
14 University, including the Pennsylvania College of Technology,  
15 the University of Pittsburgh, Temple University, Lincoln  
16 University and their branch campuses.

17 "Transfer institution." An institution that has transferred  
18 from a State-owned institution to a State-related institution  
19 under section 2021-A.

20 Section 2002-B.1. Board of trustees.

21 (a) General rule.--The following apply:

22 (1) Upon the election to transfer, the board of trustees  
23 of a transfer institution shall consist of ten voting members  
24 of the council of trustees who were serving at the time the  
25 institution submitted its resolution of transfer under  
26 section 2021-A and one additional vacancy. The additional  
27 vacancy shall be appointed by the Governor for a term of four  
28 years.

29 (2) The 11 trustees under paragraph (1) shall be  
30 designated Commonwealth trustees. The members shall continue

1 to serve for the balance of their respective terms with the  
2 exception of the chancellor who shall resign immediately upon  
3 affirmative vote of the resolution.

4 (3) The Governor, or the Governor's designee, and the  
5 Secretary of Education shall serve on the board of trustees  
6 as ex officio members.

7 (4) The appointive members shall serve four-year terms.

8 (b) Commonwealth trustee vacancies.--Vacancies shall be  
9 filled as follows:

10 (1) As the terms of Commonwealth trustees expire, the  
11 successor trustees shall be appointed in the following  
12 manner:

13 (i) The first appointment shall be made by the  
14 Governor with the advice and consent of a majority of the  
15 Senate.

16 (ii) The second appointment shall be made by the  
17 President pro tempore of the Senate.

18 (iii) The third appointment shall be made by the  
19 Speaker of the House of Representatives.

20 (2) Thereafter, as vacancies occur, Commonwealth  
21 trustees shall be appointed in rotation in the order set  
22 forth under paragraph (1), except that appointments shall  
23 conform to the following:

24 (i) A total of three appointments shall be made by  
25 the Governor with the advice and consent of a majority of  
26 the Senate.

27 (ii) A total of four appointments shall be made by  
28 the President pro tempore of the Senate.

29 (iii) A total of four appointments shall be made by  
30 the Speaker of the House of Representatives.

1           (3) All appointments to fill Commonwealth trustee  
2           vacancies shall be made by July 1 of the year in which the  
3           vacancy occurs.

4           (c) Expansion.--Within six months after becoming a transfer  
5           institution, the by-laws of the institution shall be amended to  
6           provide for an additional 24 trustees, in addition to the 11  
7           Commonwealth trustees appointed under subsection (b), and to  
8           establish a procedure whereby each following year six new  
9           trustees will be elected for four-year terms until a total  
10           complement of 35 trustees is reached. The council of trustees  
11           may further expand its membership but the ratio of Commonwealth  
12           trustees must always remain at approximately one-third of the  
13           total membership.

14           (d) Appointment and reappointment of additional trustees.--  
15           (Reserved).

16           (e) Powers.--All management, control and conduct of the  
17           instructional, administrative and financial affairs of the  
18           transfer institution shall be vested in the board of trustees.  
19           The board may exercise all the powers of the transfer  
20           institution and create by-laws for its own government, as well  
21           as for the governing of the transfer institution.

22           Section 2003-B.1. Public support and tuition.

23           The transfer institution shall maintain such tuition and fee  
24           schedules for Pennsylvania resident and non-Pennsylvania  
25           resident students as are set forth annually under the  
26           appropriation act for the transfer institution. The amounts  
27           appropriated by the appropriation act for the transfer  
28           institution shall be no less than its prior State allocations as  
29           a State-owned institution and shall be sufficient for the  
30           maintenance of the tuition and fee schedules by the transfer



1 institution. If the amounts appropriated are not sufficient for  
2 the maintenance of the tuition and fee schedules, the transfer  
3 institution shall have the right to alter the tuition and fee  
4 schedules to the extent necessary to provide required income  
5 equal to the amount not provided by the appropriation act.

6 Section 2004-B.1. Capital improvements.

7 The benefits of all Commonwealth or Commonwealth authority  
8 programs for capital development and improvement shall be  
9 available to a transfer institution under terms and conditions  
10 comparable to those applicable to a State-related institution.  
11 The Commonwealth may, by agreement with the board of trustees of  
12 the transfer institution, acquire lands, erect and equip  
13 buildings and provide facilities for the use of the transfer  
14 institution.

15 Section 2005-B.1. Appropriations.

16 The sums appropriated by the Commonwealth to a transfer  
17 institution shall be paid to the board of trustees only upon  
18 presentation by them of certified payrolls and vouchers showing  
19 expenditures in accordance with the appropriation. The Auditor  
20 General shall draw a warrant upon the State Treasurer for  
21 payment of approved expenditures. All expenditures made by the  
22 board of trustees in respect to such appropriations shall be  
23 subject to a post-audit by the Auditor General.

24 Section 2006-B.1. Issuance of bonds.

25 (a) General rule.--The board of trustees of a transfer  
26 institution may provide for the issuance of bonds in the name of  
27 the transfer institution for any proper purpose in the same  
28 manner as provided when the institution was a State-owned  
29 institution.

30 (b) Prohibitions.--The transfer institution shall have no

1 power at any time or in any manner to pledge the credit or the  
2 taxing power of the Commonwealth or any political subdivision  
3 nor shall any of its obligations be deemed to be obligations of  
4 the Commonwealth or of any of its political subdivisions, nor  
5 shall the Commonwealth or any of its political subdivisions be  
6 liable for the payment of principal of or interest on such  
7 obligations.

8 (c) Taxation.--Bonds issued by the transfer institution and  
9 loans secured by mortgages, their transfer and the income from  
10 their transfer, including any profits made on sale, shall at all  
11 times be free from taxation within the Commonwealth.

12 Section 2007-B.1. Reports.

13 The president of the transfer institution shall each year, no  
14 later than October 1, make a report of all the activities of the  
15 transfer institution, including all instructional,  
16 administrative and financial activities, for the preceding  
17 scholastic and fiscal year to the board of trustees. The board  
18 of trustees shall transmit the report to the Governor and to the  
19 General Assembly.

20 Section 6. The act of March 15, 1899 (P.L.8, No.4), entitled  
21 "An act to regulate the manner in which appropriations to  
22 educational, penal, reformatory, charitable, benevolent, or  
23 eleemosynary institutions shall be paid," shall not apply to any  
24 appropriation made under this act.

25 Section 7. This act shall take effect July 1, 2014.