

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2172 Session of 2020

INTRODUCED BY TOPPER, SONNEY, SCHROEDER, BENNINGHOFF, BROWN, EVERETT, GAYDOS, JAMES, JONES, KORTZ, MASSER, MILLARD, MOUL, MUSTELLO, OBERLANDER, OWLETT, PICKETT, RADER, ROAE, ROTHMAN, SAYLOR, STAATS, STRUZZI, SCHLEGEL CULVER AND GLEIM, JANUARY 22, 2020

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MAY 20, 2020

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 <--
7 establishment of the State System of Higher Education and its
8 institutions, for purposes and general powers, for project
9 contracts, for power and duties of institution presidents, <--
10 for method of disposition and consideration by the General
11 Assembly and for campus police powers and duties.

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 paragraphs 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

1 meaning:

2 * * *

3 ~~(10.1) "Non State appropriated funds" shall mean any funds~~
4 ~~that the system or an institution receives or are generated from~~
5 ~~other sources, such as gifts, tuition, student fees, including~~
6 ~~student activity fees, grants and assistance from Federal and~~
7 ~~State agencies, a local political subdivision, foundations,~~
8 ~~corporations or any other source.~~

9 * * *

10 ~~(13.1) "State appropriated funds" shall mean any funds~~
11 ~~appropriated to the system by the General Assembly.~~

12 * * *

13 Section 2. Section 2002-A of the act is amended to read:

14 SECTION 1. SECTION 2002-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 TO READ:

17 Section 2002-A. Establishment of the State System of Higher
18 Education and its Institutions.--(a) Subject to the regulatory
19 powers conferred by law upon the State Board of Education, there
20 is hereby established a body corporate and politic constituting
21 a public corporation and government instrumentality that enjoys
22 sovereign immunity and official immunity and remains immune from
23 suit, EXCEPT as the General Assembly may specifically waive <--
24 immunity, which shall be known as the State System of Higher
25 Education, independent of the Department of Education,
26 hereinafter referred to as the system, which shall consist of
27 the following institutions and such other institutions,
28 presently existing or newly created, as may hereafter be
29 admitted by the board in concurrence with other agencies as
30 required by law:

- 1 (1) Bloomsburg [State College] University of Pennsylvania;
- 2 (2) California [State College] University of Pennsylvania;
- 3 (3) Cheyney [State College] University of Pennsylvania;
- 4 (4) Clarion [State College] University of Pennsylvania;
- 5 (5) East Stroudsburg [State College] University of
- 6 Pennsylvania;
- 7 (6) Edinboro [State College] University of Pennsylvania;
- 8 (7) Indiana University of Pennsylvania;
- 9 (8) Kutztown [State College] University of Pennsylvania;
- 10 (9) Lock Haven [State College] University of Pennsylvania;
- 11 (10) Mansfield [State College] University of Pennsylvania;
- 12 (11) Millersville [State College] University of
- 13 Pennsylvania;
- 14 (12) Shippensburg [State College] University of
- 15 Pennsylvania;
- 16 (13) Slippery Rock [State College] University of
- 17 Pennsylvania; and
- 18 (14) West Chester [State College] University of
- 19 Pennsylvania.

20 (b) [Each of the said institutions shall hereafter be known
21 as the (Name) University of Pennsylvania of the State System of
22 Higher Education, except for Indiana University of Pennsylvania,
23 which shall retain its name.] As successor institutions to the
24 State Normal Schools, appropriations for [their] each of the
25 institutions' operation are ordinary expenses of government,
26 requiring only a majority vote of each House of the General
27 Assembly. The State System of Higher Education shall have the
28 same preferred status for appropriations as is enjoyed by its
29 constituent institutions. [State funds appropriated to the
30 system shall be allocated] Except for funds allocated for system

1 expenditures on behalf of the system's institutions, the system
2 shall allocate State-appropriated funds to the individual
3 institutions on a formula based on, but not limited to, such
4 factors as enrollments, degrees granted and programs.

5 ~~(c) The procurement of goods, services, supplies and~~ <--
6 ~~construction procured for or by the system or institutions with~~
7 ~~State appropriated funds shall comply with the provisions of 62~~
8 ~~Pa.C.S. (relating to procurement). The procurement of goods,~~
9 ~~services, supplies and construction procured for or by the~~
10 ~~system or institutions with non State appropriated funds shall~~
11 ~~not be subject to the provisions of 62 Pa.C.S., but shall comply~~
12 ~~with board policy.~~

13 ~~(d) (C) As a government instrumentality of the Commonwealth,~~ <--
14 ~~any real property owned and titled to the system shall be immune~~
15 ~~from taxation. Local regulation of real property owned and~~
16 ~~titled to the system may only occur based upon a specific grant~~
17 ~~of authority to a local subdivision by the General Assembly.~~

18 Section 3 2. Section 2003-A(a) and (b) (3) of the act are <--
19 amended and subsection (b) is amended by adding a paragraph to
20 read:

21 Section 2003-A. Purposes and General Powers.--(a) The State
22 System of Higher Education shall be part of the Commonwealth's
23 system of higher education. Its purpose shall be to provide high
24 quality education at the lowest possible cost to [the] students.
25 The primary mission of the system is the provision of
26 instruction for undergraduate and graduate students to and
27 beyond the master's degree in the liberal arts and sciences and
28 in applied fields, including the teaching profession. Graduate
29 instruction at the doctoral level, except for doctoral programs
30 provided for in the act of December 16, 1965 (P.L.1113, No.430),

1 known as the "Indiana University of Pennsylvania Act," only may
2 be offered jointly with Indiana University or an institution
3 chartered to offer work at the doctoral level. Programs of
4 research and service may be provided which are approved by the
5 Board of Governors, and which are consistent with the primary
6 mission of the system. Each institution shall provide
7 appropriate educational facilities, student living facilities
8 and such other facilities as deemed necessary by the board.

9 (b) The system is hereby granted and shall have and may
10 exercise all the powers necessary or convenient for the carrying
11 out of the aforesaid purposes, including, but without limiting
12 the generality of the foregoing, the following rights and
13 powers:

14 * * *

15 (3) To acquire, purchase, hold, lease as lessee and use any
16 property, real, personal or mixed, tangible or intangible, or
17 any interest therein, lease as lessor any property, real,
18 personal or mixed, tangible or intangible, necessary or
19 desirable for carrying out the purposes of the system, and to
20 sell, transfer and dispose of any property acquired by gift,
21 grant, devise or bequest, whether the property is real, personal
22 or mixed, tangible or intangible, or any interest therein; to
23 take, demand, receive and possess all moneys, real property and
24 goods which shall be appropriated, given or granted to for the
25 use of the system and to apply the same according to the will of
26 the donors; to sell, transfer and dispose of real property
27 acquired by and titled to the system [upon approval by the
28 General Assembly] as provided in [section 2018-A] subsection
29 (b.1); and by gift, purchase or devise to receive, possess,
30 enjoy and retain forever any and all real and personal estate

1 and funds, of whatsoever kind, nature or quality the same may
2 be, in special trust and confidence that the same, and the
3 profits thereof, shall be applied to and for the use and purpose
4 of endowing the system, and shall have power to receive
5 donations from any source whatever, to be exclusively devoted to
6 the purposes of the system or according to the terms of
7 donation: Provided, however, That the system shall have no power
8 at any time or in any manner, TO TAKE, DEMAND OR POSSESS ANY <--
9 PROPERTY TITLED NOW OR IN THE FUTURE TO AN AFFILIATED ENTITY OR
10 ORGANIZATION, to indemnify third parties, to pledge the credit
11 or taxing power of the Commonwealth, nor shall any of its
12 obligations or debts be deemed to be obligations of the
13 Commonwealth, nor shall the Commonwealth be liable for the
14 payment of principal or interest on such obligations. [Nothing
15 herein shall empower the Board of Governors or the chancellor to
16 take or receive any moneys, goods or other property, real or
17 personal, which is given or granted to specific institutions.]

18 (4) To sell, transfer or dispose of real property titled to
19 the system to an individual, organization, firm or corporation,
20 political subdivision of the Commonwealth or the Government of
21 the United States or a branch or agency thereof.

22 * * *

23 ~~Section 4. Section 2003 A.1(b), (c.2), (d), (e) and (f) of~~ <--
24 ~~the act are amended to read:~~

25 SECTION 3. SECTIONS 2003-A.1(D) AND (F) AND 2018-A OF THE <--
26 ACT ARE AMENDED TO READ:

27 Section 2003-A.1. Project Contracts.--* * *

28 ~~{(b) The system shall review the work, experience and~~ <--
29 ~~qualifications of architects and engineers seeking contracts~~
30 ~~from the system under this section and, on the basis of merit,~~

1 ~~select and appoint architects and engineers for the design,~~
2 ~~contract administration and, at the system's discretion,~~
3 ~~inspection of a project authorized by this section. The board~~
4 ~~shall give public notice in the manner provided by law of~~
5 ~~projects which require the services of architects and engineers.~~
6 ~~The board shall include, but not be limited to, consideration of~~
7 ~~the following factors in the selection of architects and~~
8 ~~engineers:~~

9 ~~(1) equitable distribution of contracts among qualified~~
10 ~~architects and engineers;~~

11 ~~(2) capability to perform the design and construction~~
12 ~~services for the contract being considered;~~

13 ~~(3) geographic proximity of the architect or engineer to the~~
14 ~~proposed facility;~~

15 ~~(4) ability of the architect or engineer to furnish the~~
16 ~~necessary available manpower to perform the services required by~~
17 ~~the project; and~~

18 ~~(5) any other related circumstances peculiar to the proposed~~
19 ~~contract.]~~

20 ~~(c.2) All contracts, other than contracts for the retention~~
21 ~~of architects and engineers or contracts procured with non~~
22 ~~State appropriated funds, authorized by this section which~~
23 ~~exceed a base amount of eighteen thousand five hundred dollars~~
24 ~~(\$18,500), subject to adjustment under subsection (c.3), shall~~
25 ~~be advertised in the manner provided by law and competitively~~
26 ~~bid and awarded to the lowest responsible bidder. In case of~~
27 ~~emergencies and notwithstanding any other provision of this~~
28 ~~section to the contrary, the chancellor may make or authorize~~
29 ~~others to make an emergency procurement whenever a threat exists~~
30 ~~to public health, welfare or safety or circumstances outside the~~

1 ~~control of the State system and creates an urgency of need which~~
2 ~~does not permit the delay involved in using more formal~~
3 ~~competitive methods. Whenever practical, in the case of a~~
4 ~~procurement of a supply, at least two (2) bids shall be~~
5 ~~solicited. A written determination of the basis for the~~
6 ~~emergency and for the selection of the particular contractor~~
7 ~~shall be included in the contract file.~~

8 * * *

9 [(d) The power and authority granted by this section shall
10 not be exercised by the system, the board or an institution for
11 a project to modify, repair or renovate any facility erected by
12 the Department of General Services unless prior written notice
13 setting forth the nature, scope, extent and description of such
14 project has been given to the Department of General Services.]

15 ~~(e) Nothing in this section shall be construed as amending, <--~~
16 ~~repealing or otherwise modifying the provisions of the act of~~
17 ~~May 1, 1913 (P.L.155, No.104), entitled "An act regulating the~~
18 ~~letting of certain contracts for the erection, construction, and~~
19 ~~alteration of public buildings," or the act of] August 15, 1961~~
20 ~~(P.L.987, No.442), known as the "Pennsylvania Prevailing Wage~~
21 ~~Act." The act of May 1, 1913 (P.L.155, No.104), referred to as~~
22 ~~the "Separations Act," shall not apply to any person, entity,~~
23 ~~contract or activity provided for by this article.~~

24 (f) The system is authorized to transfer and convey any
25 easements or licenses [necessitated by any construction project
26 which has been previously authorized by the board] as necessary.

27 ~~Section 5. Section 2010 A of the act is amended by adding a <--~~
28 ~~paragraph to read:~~

29 ~~Section 2010 A. Power and Duties of Institution~~
30 ~~Presidents. The president of each institution shall be~~

1 ~~appointed by the board. The president shall be the chief-~~
2 ~~executive officer of that institution. He shall have the right-~~
3 ~~to attend all meetings of the council of that institution and-~~
4 ~~shall have the right to speak on all matters before the council-~~
5 ~~but not to vote. Subject to the stated authority of the board-~~
6 ~~and the council, each president shall have the following powers-~~
7 ~~and duties:~~

8 * * *

9 ~~(10.2) The provisions of subsection (10.1) shall only apply~~
10 ~~to contracts purchased with State appropriated funds.~~

11 * * *

12 Section 6. ~~Section 2018 A of the act is amended to read:~~

13 [Section 2018-A. Method of Disposition; Consideration by the
14 General Assembly.--(a) Whenever the system deems that it is
15 necessary or desirable to sell, transfer or dispose of real
16 property acquired by and titled to it, it shall request
17 authorization from the General Assembly to sell, transfer or
18 dispose of said real property; and from time to time, as
19 necessary, the system shall submit to the Chief Clerk of the
20 House of Representatives and the Secretary of the Senate
21 requests to sell, transfer or dispose of real property acquired
22 by and titled to the system for consideration by the General
23 Assembly.

24 (b) Each request for authorization to sell, transfer or
25 dispose of real property transmitted to the General Assembly
26 shall be proposed as a resolution, and shall be placed on the
27 calendar of each house for the next legislative day following
28 its receipt, and shall be considered by each house within thirty
29 (30) calendar days of continuous session of the General
30 Assembly.

1 (c) Each request for authorization to sell, transfer or
2 dispose of real property shall take effect if it is approved by
3 a majority vote of the duly elected membership of each house
4 during such thirty-day period or may be disapproved by either
5 house during that period by a majority vote of the duly elected
6 membership of each house.

7 (d) No resolution shall be effective:

8 (1) unless it designates the number of the request for
9 authorization to sell, transfer or dispose of real property and
10 the date on which it was transmitted to the General Assembly; or

11 (2) if it specifies more than one request for authorization
12 to sell, transfer or dispose of real property except as
13 otherwise provided by subsection (g) of this section.

14 (e) The effective date of each request for authorization to
15 sell, dispose or transfer real property shall be the date of
16 approval of the last of the two houses to act. Upon the
17 expiration of the thirty-day period after the delivery of the
18 request for authorization to sell, dispose or transfer real
19 property to the two Houses of the General Assembly and the
20 failure to act as provided in subsection (c) of this section,
21 each request for authorization to sell, dispose or transfer real
22 property shall become effective.

23 (f) For the purposes of subsection (b) of this section:

24 (1) Continuity of session shall be considered as broken only
25 by an adjournment of the General Assembly sine die.

26 (2) In the computation of the thirty-day period, there shall
27 be excluded the days on which either house is not in session
28 because of an adjournment of more than ten (10) days to a day
29 certain.

30 (g) Any provision of the request for authorization to sell,

1 dispose or transfer real property may, under provisions
2 contained therein, be made operative at a time later than the
3 date on which the request for authorization to sell, transfer or
4 dispose of real property otherwise takes effect.]

5 Section 7 4. Section 2019-A of the act is amended by adding <--
6 a subsection to read:

7 Section 2019-A. Campus Police Powers and Duties.--* * *

8 (d) Campus police are authorized to disseminate
9 investigative information as defined in 18 Pa.C.S. § 9102
10 (relating to definitions) to university officials for use in
11 student disciplinary matters subject to 22 Pa. Code Ch. 505
12 (relating to student personnel). Notwithstanding the exception
13 contained in this section, all other provisions of 18 Pa.C.S.
14 Ch. 91 (relating to criminal history record information) shall
15 apply to campus police.

16 Section 8 5. All acts and parts of acts are repealed and all <--
17 regulations and parts of regulations are abrogated insofar as
18 they are inconsistent with this act.

19 Section 9 6. This act shall apply to contracts and purchases <--
20 advertised on or after January 1 of the year following the
21 effective date of this section.

22 Section ~~10~~ 7. This act shall take effect as follows: <--

23 (1) The addition of section 2002-A(c) of the act shall
24 take effect January 1 of the year following the effective
25 date of this section.

26 (2) The remainder of this act shall take effect in 60
27 days.