

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1343 Session of 2011

INTRODUCED BY BAKER, HANNA, CLYMER, FLECK, AUMENT, BOYD, CALTAGIRONE, CARROLL, DALEY, EVERETT, FABRIZIO, GEIST, GEORGE, GOODMAN, GROVE, KORTZ, KULA, MICOZZIE, MILLER, MILNE, MUNDY, MURT, MYERS, PAYTON, QUINN AND WATSON, APRIL 13, 2011

AS REPORTED FROM COMMITTEE ON EDUCATION, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 18, 2011

AN ACT

1 Authorizing State-owned universities and the employees thereof
2 to enter into certain agreements with affiliated entities;
3 providing for doctoral degrees; and ~~making repeals~~ REPEALING
4 THE STATE COLLEGE FACULTY COMPENSATION LAW AND OTHER RELATED
5 LAWS. ←

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

13 CHAPTER 1

14 GENERAL PROVISIONS

15 Section 101. Short title.

16 This act shall be known and may be cited as the Commonwealth
17 Higher Education Modernization Act ~~of 2011.~~ ←

18 Section 102. Definitions.

19 The following words and phrases when used in this act shall
20 have the meanings given to them in this section unless the
21 context clearly indicates otherwise:

22 "Affiliated entity." A private nonprofit corporation with
23 the sole purpose of benefiting the State System of Higher
24 Education or a State-owned university.

25 "Board." The Board of Governors of the State System of
26 Higher Education authorized by section 2004-A of the act of
27 March 10, 1949 (P.L.30, No.14), known as the Public School Code
28 of 1949.

29 "Economic development transaction." An agreement that allows
30 a State-owned university to develop and market intellectual

1 property owned or created by ~~a~~ AN EMPLOYEE OF THE State System ←
2 of Higher Education ~~employee~~. ←

3 ~~"Immediate family member." A parent, spouse, child, brother ←~~
4 ~~or sister.~~

5 "PASSHE employee." An individual employed by the State
6 System of Higher Education or one of its constituent
7 universities.

8 "State-owned university." One of the institutions under the
9 State System of Higher Education or any other institution that
10 may be admitted to the State System of Higher Education
11 subsequent to the effective date of this section in accordance
12 with the provisions of the act of March 10, 1949 (P.L.30,
13 No.14), known as the Public School Code of 1949.

14 "System." The State System of Higher Education created by
15 the act of March 10, 1949 (P.L.30, No.14), known as the Public
16 School Code of 1949.
17 Section 103. Purpose.

18 The General Assembly recognizes the following public policy
19 purposes:

20 (1) The system and State-owned universities are valuable
21 resources for the communities where they were founded as well
22 as to this Commonwealth as a whole.

23 (2) The system and State-owned universities are vital
24 for community and economic development within their
25 communities as well as to this Commonwealth as a whole.

26 (3) The State-owned universities are vital economic
27 drivers in the communities where they are located. In order
28 to maximize this value to the Commonwealth and its citizens,
29 it is important that the system and State-owned universities
30 have the ability to assist PASSHE employees in developing

1 academic research and other intellectual property that can
2 lead to jobs and other economic development within this
3 Commonwealth.

4 (4) The system and State-owned universities need the
5 ability and flexibility to develop and maintain close and
6 integrated relationships with affiliated entities that raise
7 and utilize nonpublic funds to benefit and promote the system
8 and its universities.

9 CHAPTER 3

10 ECONOMIC DEVELOPMENT

11 Section 301. Applicability.

12 This chapter shall apply to all economic development
13 transactions entered into by State-owned universities and PASSHE
14 employees.

15 Section 302. Agreements authorized.

16 State-owned universities and PASSHE employees may enter into
17 agreements for economic development transactions that inure to
18 the benefit of the State-owned university and PASSHE employees.

19 Section 303. Approval and notice.

20 Agreements entered into under this chapter shall be reviewed
21 and approved in accordance with the form and legality review
22 provisions of the act of October 15, 1980 (P.L.950, No.164),
23 known as the Commonwealth Attorneys Act. All agreements
24 authorized by this chapter shall be made available to the public
25 by listing them with the Treasury Department in accordance with
26 the provisions of Chapter 17 of the act of February 14, 2008
27 (P.L.6, No.3), known as the Right-to-Know Law.

28 Section 304. Construction.

29 Nothing in this act shall be construed to:

30 (1) Alter, impair or limit the terms or conditions of

1 any sponsorship agreement, grant agreement, collective
2 bargaining agreement or other contract.

3 (2) Authorize the unlawful use of public resources by
4 private individuals in the development of intellectual
5 property.

6 CHAPTER 5

7 RELATIONS WITH PRIVATE AFFILIATED ENTITIES

8 Section 501. Scope of chapter.

9 This chapter shall govern the relationships between the
10 system or a State-owned university and affiliated entities that
11 are incorporated for the sole purpose of benefiting the system
12 or State-owned university.

13 Section 502. Applicability.

14 ~~(a) Purpose.~~ In order for this chapter to apply to an ←
15 affiliated entity, the affiliated entity must exist for the sole
16 purpose of benefiting the system or a State-owned university.
17 Affiliated entities may raise and utilize nonpublic funds to
18 benefit and promote the system or a State-owned university.

19 ~~(b) Affiliation agreements.~~ A formal, written affiliation ←
20 agreement between a government entity and the affiliated entity
21 and the system or State-owned university must:

22 ~~(1) Establish the relationship between the parties.~~

23 ~~(2) State the terms and conditions of the relationship~~
24 ~~between the parties.~~

25 ~~(3) Comply with all policies or requirements established~~
26 ~~by the board.~~

27 ~~(4) Be submitted to the board and made available to the~~
28 ~~public.~~

29 Section 503. Authorized transactions.

30 (a) General rule.--PASSHE employees OR OFFICERS may ←

1 voluntarily provide services to an affiliated entity AS AN EX ←
2 OFFICIO, NONVOTING MEMBER OF THE BOARD OF SUCH AFFILIATED ENTITY
3 as part of the mission of the system or a State-owned university
4 and such shall not be a violation of the act of July 19, 1957 ←
5 (P.L.1017, No.451), known as the State Adverse Interest Act.

6 ~~(b) Agents.~~

7 ~~(1) PASSHE employees may serve as agents, officers or~~
8 ~~representatives of an affiliated entity.~~

9 ~~(2) PASSHE employees serving in such roles shall clearly~~
10 ~~identify themselves as an agent of the affiliated entity when~~
11 ~~serving in such capacity and specify that they are not~~
12 ~~representing the system or State owned university in the~~
13 ~~instances and transactions.~~

14 ~~(e) (B) Joint fundraising.--~~The system and State-owned ←
15 universities may coordinate and jointly engage in fundraising
16 activities with an affiliated entity in order to raise moneys
17 for the affiliated entity as long as the moneys are used to
18 directly inure to the benefit of the system or State-owned
19 university for the purposes stated in this act.

20 (C) APPLICABILITY.--NOTWITHSTANDING ANY OTHER PROVISION OF ←
21 LAW TO THE CONTRARY, THE PROVISIONS OF THE ACT OF JULY 19, 1957
22 (P.L.1017, NO.451), KNOWN AS THE STATE ADVERSE INTEREST ACT,
23 SHALL NOT APPLY TO THE SYSTEM, ITS INSTITUTIONS OR EMPLOYEES OF
24 THE SYSTEM AND ITS INSTITUTIONS FOR ACTIONS UNDERTAKEN IN
25 ACCORDANCE WITH THE PROVISIONS OF SUBSECTIONS (A) AND (B).

26 ~~Section 504. Prohibition.~~ ←

27 ~~No PASSHE employee or immediate family member of a PASSHE~~
28 ~~employee serving in any capacity with an affiliated entity may~~
29 ~~receive a thing of value from the affiliated entity, except~~
30 ~~tokens presented or provided for such service which are of de~~

1 ~~minimis economic value.~~

2 Section ~~505~~ 504. Limitations. ←

3 (a) General rule.--Nothing in this chapter shall be
4 construed as authorizing or granting power to an affiliated
5 entity at any time or in any manner to enter into any
6 transactions or any agreements on behalf of the system or a
7 State-owned university.

8 (b) No liability for debts of affiliated entity.--Neither
9 the system nor a State-owned university shall be responsible for
10 the payment of any debts or satisfaction of any obligations
11 incurred by an affiliated entity.

12 Section ~~506~~ 505. Status. ←

13 Affiliated entities recognized under this chapter shall not
14 be considered instrumentalities or agencies of the Commonwealth.
15 The Commonwealth shall not have any ownership interest in the
16 corporation and all affiliated entities shall continue to be
17 considered private corporations.

18 CHAPTER 7

19 DOCTORAL DEGREES

20 Section 701. Authorization.

21 (a) General rule.--In addition to the Indiana University of
22 Pennsylvania, all State-owned universities may provide graduate
23 instruction at the doctoral level in areas of study leading to
24 professional doctorates, also known as applied doctorates.
25 Professional doctoral degrees need not be offered in conjunction
26 with any other institution chartered to offer education at the
27 doctoral level.

28 (b) Exception.--The authorization under subsection (a) does
29 not include the Doctor of Philosophy (Ph.D.) degree for any
30 State-owned university, except for the Indiana University of

1 Pennsylvania.

2 Section 702. Parameters.

3 (a) Duty to comply.--State-owned universities must comply
4 with all criteria established by the board and satisfy all
5 requirements deemed necessary by the board in order to provide
6 doctoral-level degrees.

7 (b) Criteria.--The criteria shall include, but not be
8 limited to:

9 (1) Institutional mission, plan and readiness.

10 (2) Need for the program.

11 (3) Academic integrity.

12 (4) Cooperation with other State-owned universities,
13 agencies or organizations.

14 (5) Assessment and accreditation.

15 (6) Resource sufficiency.

16 (7) Educational opportunity.

17 (b) Preapproval of program by board.--All professional
18 doctoral degree programs of State-owned universities must be
19 approved by the board prior to a State-owned university offering
20 the degree program.

21 CHAPTER 9

22 MISCELLANEOUS PROVISIONS

23 Section 901. Repeals.

24 (a) Declaration.--The General Assembly declares that the
25 repeals in this section are necessary to effectuate this act.

26 (b) Specific.--The following acts are repealed:

27 (1) The act of May 20, 1857 (P.L.581, No.619), entitled
28 "An act to provide for the Due Training of Teachers for the
29 Common Schools of the State."

30 (2) The act of April 15, 1859 (P.L.680, No.681),

1 entitled "A supplement to an act to provide for the due
2 training of Teachers for the Common Schools of the State,
3 passed on the twentieth of May, one thousand eight hundred
4 and fifty-seven."

5 (3) The act of January 18, 1952 (1951 P.L.2111, No.600),
6 referred to as the State College Faculty Compensation Law.

7 (c) Inconsistent.--All acts and parts of acts are repealed
8 insofar as they are inconsistent with this act.

9 Section 902. Effective date.

10 This act shall take effect in 60 days.