

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, WATSON AND BRIGGS, APRIL 13, 2011

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, NOVEMBER 2, 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 repealing the State
4 College Faculty Compensation Law and other related laws.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

CHAPTER 1

GENERAL PROVISIONS

9 Section 101. Short title.

10 This act shall be known and may be cited as the Commonwealth
11 Higher Education Modernization Act.

12 Section 102. Definitions.

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

16 "Affiliated entity." A private nonprofit corporation with
17 the sole purpose of benefiting the State System of Higher

1 Education or a State-owned university.

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

6 "Economic development transaction." An agreement that allows
7 a State-owned university to develop and market intellectual
8 property owned or created by an employee of the State System of
9 Higher Education.

10 "PASSHE employee." An individual employed by the State
11 System of Higher Education or one of its constituent
12 universities.

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

19 "System." The State System of Higher Education created by
20 the act of March 10, 1949 (P.L.30, No.14), known as the Public
21 School Code of 1949.

22 Section 103. Purpose.

23 The General Assembly recognizes the following public policy
24 purposes:

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

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

1 (3) The State-owned universities are vital economic
2 drivers in the communities where they are located. In order
3 to maximize this value to the Commonwealth and its citizens,
4 it is important that the system and State-owned universities
5 have the ability to assist PASSHE employees in developing
6 academic research and other intellectual property that can
7 lead to jobs and other economic development within this
8 Commonwealth.

9 (4) The system and State-owned universities need the
10 ability and flexibility to develop and maintain close and
11 integrated relationships with affiliated entities that raise
12 and utilize nonpublic funds to benefit and promote the system
13 and its universities.

14 CHAPTER 3

15 ECONOMIC DEVELOPMENT

16 Section 301. Applicability.

17 This chapter shall apply to all economic development
18 transactions entered into by State-owned universities and PASSHE
19 employees.

20 Section 302. Agreements authorized.

21 State-owned universities and PASSHE employees may enter into
22 agreements for economic development transactions that inure to
23 the benefit of the State-owned university and PASSHE employees.

24 Section 303. Approval and notice.

25 Agreements entered into under this chapter shall be reviewed
26 and approved in accordance with the form and legality review
27 provisions of the act of October 15, 1980 (P.L.950, No.164),
28 known as the Commonwealth Attorneys Act. All agreements
29 authorized by this chapter shall be made available to the public
30 by listing them with the Treasury Department in accordance with

1 the provisions of Chapter 17 of the act of February 14, 2008
2 (P.L.6, No.3), known as the Right-to-Know Law.

3 Section 304. Construction.

4 Nothing in this act shall be construed to:

5 (1) Alter, impair or limit the terms or conditions of
6 any sponsorship agreement, grant agreement, collective
7 bargaining agreement or other contract.

8 (2) Authorize the unlawful use of public resources by
9 private individuals in the development of intellectual
10 property.

11 CHAPTER 5

12 RELATIONS WITH PRIVATE AFFILIATED ENTITIES

13 Section 501. Scope of chapter.

14 This chapter shall govern the relationships between the
15 system or a State-owned university and affiliated entities that
16 are incorporated for the sole purpose of benefiting the system
17 or State-owned university.

18 Section 502. Applicability.

19 In order for this chapter to apply to an affiliated entity,
20 the affiliated entity must exist for the sole purpose of
21 benefiting the system or a State-owned university. Affiliated
22 entities may raise and utilize nonpublic funds to benefit and
23 promote the system or a State-owned university.

24 Section 503. Authorized transactions.

25 (a) General rule.--PASSHE employees or officers may
26 voluntarily provide services to an affiliated entity as an ex
27 officio, nonvoting member of the board of such affiliated entity
28 as part of the mission of the system or a State-owned
29 university.

30 (b) Joint fundraising.--The system and State-owned

1 universities may coordinate and jointly engage in fundraising
2 activities with an affiliated entity in order to raise moneys
3 for the affiliated entity as long as the moneys are used to
4 directly inure to the benefit of the system or State-owned
5 university for the purposes stated in this act.

6 (c) Applicability.--Notwithstanding any other provision of
7 law to the contrary, the provisions of the act of July 19, 1957
8 (P.L.1017, No.451), known as the State Adverse Interest Act,
9 shall not apply to the system, its institutions or employees of
10 the system and its institutions for actions undertaken in
11 accordance with the provisions of subsections (a) and (b).
12 Section 504. Limitations.

13 (a) General rule.--Nothing in this chapter shall be
14 construed as authorizing or granting power to an affiliated
15 entity at any time or in any manner to enter into any
16 transactions or any agreements on behalf of the system or a
17 State-owned university.

18 (b) No liability for debts of affiliated entity.--Neither
19 the system nor a State-owned university shall be responsible for
20 the payment of any debts or satisfaction of any obligations
21 incurred by an affiliated entity.
22 Section 505. Status.

23 Affiliated entities recognized under this chapter shall not
24 be considered instrumentalities or agencies of the Commonwealth.
25 The Commonwealth shall not have any ownership interest in the
26 corporation and all affiliated entities shall continue to be
27 considered private corporations.

28 CHAPTER 7

29 DOCTORAL DEGREES

30 Section 701. Authorization.

1 (a) General rule.--In addition to the Indiana University of
2 Pennsylvania, all State-owned universities may provide graduate
3 instruction at the doctoral level in areas of study leading to
4 professional doctorates, also known as applied doctorates.
5 Professional doctoral degrees need not be offered in conjunction
6 with any other institution chartered to offer education at the
7 doctoral level.

8 (b) Exception.--The authorization under subsection (a) does
9 not include the Doctor of Philosophy (Ph.D.) degree for any
10 State-owned university, except for the Indiana University of
11 Pennsylvania.

12 Section 702. Parameters.

13 (a) Duty to comply.--State-owned universities must comply
14 with all criteria established by the board and satisfy all
15 requirements deemed necessary by the board in order to provide
16 doctoral-level degrees.

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

- 19 (1) Institutional mission, plan and readiness.
- 20 (2) Need for the program.
- 21 (3) Academic integrity.
- 22 (4) Cooperation with other State-owned universities,
23 agencies or organizations.
- 24 (5) Assessment and accreditation.
- 25 (6) Resource sufficiency.
- 26 (7) Educational opportunity.

27 ~~(b)~~ (C) Preapproval of program by board.--All professional
28 doctoral degree programs of State-owned universities must be
29 approved by the board prior to a State-owned university offering
30 the degree program.





FACULTY PROVISIONS

SECTION 901. COLLEGE YEAR AND CLASSIFICATIONS.

(A) PAY PERIODS.--

(1) EACH PERSON, REGARDLESS OF THE DATE OF APPOINTMENT, APPOINTED TO A POSITION AS AN ADMINISTRATOR OR MEMBER OF THE FACULTY OF A STATE UNIVERSITY WITHIN THE CLASSIFICATIONS STATED IN THIS SECTION MAY BE PAID FOR SERVICES RENDERED DURING THE REGULAR NINE MONTH COLLEGE YEAR.

(2) EACH PERSON EMPLOYED FOR THE FULL NINE-MONTH COLLEGE YEAR MAY RECEIVE EITHER 20 OR 26 BIWEEKLY SALARY PAYMENTS.

(3) IN NO CASE SHALL ANY FACULTY MEMBER RECEIVE MORE COMPENSATION IN 26 PAYS THAN THE FACULTY MEMBER WOULD HAVE RECEIVED IN 20 PAYS.

(4) EACH PERSON EMPLOYED DURING ANY PERIOD BEYOND THE REGULAR NINE-MONTH COLLEGE YEAR SHALL BE PAID AT THE SAME RATE OF COMPENSATION THAT THE PERSON RECEIVED OR WOULD HAVE BEEN ENTITLED TO RECEIVE DURING THE REGULAR COLLEGE YEAR.

(B) LIST OF CLASSIFICATIONS.--THE CLASSIFICATIONS UNDER SUBSECTION (A) SHALL BE AS FOLLOWS:

(1) PROFESSOR QUALIFICATIONS, AN EARNED DOCTOR'S DEGREE, AT LEAST SEVEN YEARS OF TEACHING EXPERIENCE.

(2) ASSOCIATE PROFESSOR QUALIFICATIONS, A MINIMUM OF AN EARNED DOCTOR'S DEGREE OR A MASTER'S DEGREE PLUS 40 SEMESTER HOURS OF GRADUATE CREDIT OR A TOTAL OF 70 SEMESTER HOURS OF GRADUATE CREDIT INCLUDING A MASTER'S DEGREE OR ALL COURSE WORK COMPLETED TOWARD A DOCTORATE AS CERTIFIED BY THE UNIVERSITY WHERE THE WORK IS BEING TAKEN OR EQUIVALENT EXPERIENCE, AT LEAST FIVE YEARS OF TEACHING EXPERIENCE.

(3) ASSISTANT PROFESSOR QUALIFICATIONS, A MINIMUM OF

1 MASTER'S DEGREE PLUS TEN SEMESTER HOURS OF GRADUATE CREDIT OR
2 EQUIVALENT EXPERIENCE.

3 (4) INSTRUCTOR QUALIFICATIONS, A MINIMUM OF BACHELOR'S
4 DEGREE PLUS 15 SEMESTER HOURS OF GRADUATE CREDIT.

5 (C) CONSIDERATIONS FOR CLASSIFICATIONS.--

6 (1) GRADUATE DEGREES AND PREPARATION TO MEET THE
7 CLASSIFICATIONS OF THIS SECTION MUST BE EARNED IN FIELDS
8 RELATED TO THE SERVICE RENDERED TO THE UNIVERSITY.

9 (2) UPON THE RECOMMENDATION OF THE PRESIDENT OF A STATE
10 UNIVERSITY, THE BOARD MAY ACCEPT OTHER EDUCATION AND
11 EXPERIENCE QUALIFICATIONS THAN THOSE MANDATED IN THIS ACT FOR
12 TEMPORARY APPOINTMENTS.

13 SECTION 902. LEAVES OF ABSENCE.

14 (A) ELIGIBILITY.--

15 (1) UPON RECOMMENDATION OF THE PRESIDENT OF A STATE-
16 OWNED UNIVERSITY, A LEAVE OF ABSENCE FOR A PERIOD NOT TO
17 EXCEED 18 COLLEGE CALENDAR WEEKS WITH FULL PAY OR A LEAVE OF
18 ABSENCE FOR A PERIOD NOT TO EXCEED 36 CALENDAR WEEKS WITH
19 HALF PAY, FOR RESTORATION OF HEALTH, STUDY, TRAVEL OR OTHER
20 APPROPRIATE PURPOSES, MAY BE GRANTED TO ANY MEMBER OF THE
21 FACULTY OF ANY UNIVERSITY WHICH IS PART OF THE SYSTEM WHO HAS
22 COMPLETED SEVEN OR MORE YEARS OF SATISFACTORY SERVICES AS A
23 MEMBER OF THE FACULTY OF ONE OR MORE UNIVERSITIES IN THE
24 SYSTEM. PROVIDED, THAT AT LEAST FIVE CONSECUTIVE YEARS OF
25 SUCH SERVICE SHALL HAVE BEEN RENDERED TO THE UNIVERSITY FROM
26 WHICH THE LEAVE IS SOUGHT.

27 (2) AT THE OPTION OF THE EMPLOYEE, IF THE UNIVERSITY
28 OPERATES ON A SYSTEM OF UNITS OTHER THAN SEMESTERS, THE
29 EMPLOYEE MAY BE GRANTED A PERIOD CORRESPONDING TO ONE OR MORE
30 UNITS, WITHIN THE PREVIOUS RESTRICTION OF TOTAL WEEKS.

1 (3) LEAVES MAY BE GRANTED FOR ANY PART OF THE CALENDAR
2 YEAR.

3 (4) AFTER COMPLETION OF THE REQUISITE SEVEN YEARS, ONE
4 LEAVE OF ABSENCE SHALL BE ALLOWED FOR EACH ADDITIONAL SEVEN
5 YEARS OF SERVICE UPON RECOMMENDATION AND APPROVAL BY THE
6 PRESIDENT OF THE STATE-OWNED UNIVERSITY.

7 (5) LEAVES SHALL BE ACCUMULATED SO THAT NO ONE SHALL
8 LOSE ENTITLEMENT BECAUSE OF FAILURE TO USE LEAVE, BUT NO ONE
9 SHALL BE ENTITLED TO USE MORE THAN 36 WEEKS OF ACCUMULATED
10 LEAVE IN SUCCESSION.

11 (6) THE BOARD MAY GRANT A LEAVE OF ABSENCE TO OTHER
12 SYSTEM EMPLOYEES ON THE SAME BASIS AS FACULTY MEMBERS, AS
13 DEFINED IN THIS ACT.

14 (B) RETURN TO EMPLOYMENT.--

15 (1) NO LEAVE OF ABSENCE SHALL BE GRANTED UNLESS THE
16 PERSON AGREES, IN WRITING, TO RETURN TO THE PERSON'S
17 EMPLOYMENT WITH THE UNIVERSITY FOR A PERIOD OF NOT LESS THAN
18 ONE YEAR IMMEDIATELY FOLLOWING THE EXPIRATION OF THE LEAVE OF
19 ABSENCE.

20 (2) THE PRESIDENT OF THE STATE-OWNED UNIVERSITY, WITH
21 THE APPROVAL OF THE CHANCELLOR, MAY WAIVE THE REQUIREMENT TO
22 RETURN TO THE UNIVERSITY IF BOTH AGREE THAT IT IS IN THE BEST
23 INTEREST OF THE UNIVERSITY TO WAIVE THE REQUIREMENT TO
24 RETURN. THE AGREEMENT TO WAIVE THE REQUIREMENT MUST BE IN
25 WRITING AND SIGNED.

26 (C) EFFECT OF LEAVE OF ABSENCE.--

27 (1) NO SUCH LEAVE OF ABSENCE SHALL BE CONSIDERED A
28 TERMINATION OR BREACH OF THE CONTRACT OF EMPLOYMENT AND THE
29 PERSON ON LEAVE OF ABSENCE SHALL BE RETURNED TO THE SAME
30 POSITION HE OR SHE OCCUPIED PRIOR THERETO.

1 (2) EVERY EMPLOYEE, WHILE ON SUCH LEAVE OF ABSENCE,
2 SHALL BE CONSIDERED TO BE IN REGULAR FULL-TIME DAILY
3 ATTENDANCE IN THE POSITION FROM WHICH THE LEAVE WAS TAKEN
4 DURING THE PERIOD OF LEAVE, FOR THE PURPOSE OF DETERMINING
5 THE EMPLOYEE'S LENGTH OF SERVICE AND THE RIGHT TO RECEIVE
6 INCREMENTS.

7 (3) EVERY PERSON ON LEAVE OF ABSENCE SHALL RETAIN THE
8 RIGHT TO MAKE CONTRIBUTIONS AS A MEMBER OF EITHER THE STATE
9 EMPLOYEES' RETIREMENT FUND OR THE PUBLIC SCHOOL EMPLOYEES'
10 RETIREMENT FUND AND CONTINUE THE PERSON'S MEMBERSHIP IN
11 WHICHEVER SYSTEM THE PERSON CURRENTLY HOLDS MEMBERSHIP.

12 (D) POLICIES.--EACH STATE-OWNED UNIVERSITY SHALL HAVE THE
13 RIGHT TO MAKE SUCH POLICIES AS IT MAY DEEM NECESSARY TO MAKE
14 SURE THAT EMPLOYEES ON LEAVE SHALL UTILIZE SUCH LEAVE PROPERLY
15 FOR THE PURPOSE FOR WHICH IT WAS GRANTED, REQUIRING REPORTS FROM
16 THE EMPLOYEE OR EMPLOYEES ON LEAVE IN SUCH MANNER AS IT MAY DEEM
17 NECESSARY.

18 (E) CONSTRUCTION.--NOTHING IN THIS SECTION SHALL BE
19 CONSTRUED TO PREVENT ANY PERSON ON LEAVE OF ABSENCE FROM
20 RECEIVING A GRANT FOR FURTHER STUDY FROM ANY INSTITUTION OF
21 LEARNING OTHER THAN THE STATE-OWNED UNIVERSITY BY WHICH
22 EMPLOYED.

23 SECTION 903. FACULTY SALARIES IN CASES OF SICKNESS OR DEATH.

24 (A) SICKNESS.--

25 (1) IN ANY COLLEGE YEAR, WHENEVER A MEMBER OF A FACULTY
26 OF ANY STATE-OWNED UNIVERSITY IS PREVENTED BY ILLNESS OR
27 ACCIDENTAL INJURY FROM FOLLOWING THE MEMBER'S OCCUPATION,
28 DURING THE REGULAR COLLEGE YEAR, OR AT ANY OTHER TIME WHEN
29 PERFORMING THE MEMBER'S DUTIES AS A FACULTY MEMBER, THERE
30 SHALL BE PAID TO THE EMPLOYEE THE FULL SALARY TO WHICH THE

1 EMPLOYEE MAY BE ENTITLED AS IF THE EMPLOYEE WERE ACTUALLY
2 ENGAGED IN THE PERFORMANCE OF DUTY FOR A PERIOD OF 15 DAYS.
3 SUNDAYS, HOLIDAYS AND VACATION PERIODS SHALL NOT BE COUNTED
4 AS DAYS LOST.

5 (2) SUCH LEAVE SHALL BE CUMULATIVE FROM YEAR TO YEAR BUT
6 SHALL NOT EXCEED 90 DAYS' LEAVE WITH FULL PAY IN ANY ONE
7 YEAR.

8 (3) NOTWITHSTANDING PROVISIONS OF PARAGRAPHS (1) AND
9 (2), NO FACULTY MEMBER'S SALARY SHALL BE PAID, IF THE
10 ACCIDENTAL INJURY IS INCURRED WHILE THE EMPLOYEE IS ENGAGED
11 IN REMUNERATIVE WORK UNRELATED TO SCHOOL DUTIES.

12 (4) UNTIL SUCH TIME AS AN EMPLOYEE HAS ACCUMULATED 90
13 DAYS' LEAVE, THE PROVISIONS OF THIS SECTION SHALL NOT
14 PRECLUDE THE GRANTING OF ADDITIONAL SICK LEAVE BY
15 ADMINISTRATIVE ACTION.

16 (B) DEATH.--WHENEVER A MEMBER OF A FACULTY OF ANY STATE-
17 OWNED UNIVERSITY SHALL BE ABSENT FROM DUTY BECAUSE OF A DEATH IN
18 THE IMMEDIATE FAMILY OF THE EMPLOYEE, THERE SHALL BE NO
19 DEDUCTION IN SALARY OF THE EMPLOYEE FOR AN ABSENCE NOT IN EXCESS
20 OF THREE DAYS. MEMBERS OF THE IMMEDIATE FAMILY SHALL CONSIST OF
21 FATHER, MOTHER, BROTHER, SISTER, SON, DAUGHTER, HUSBAND, WIFE OR
22 PARENT-IN-LAW AND INCLUDE ANY NEAR RELATIVE WHO RESIDES IN THE
23 SAME HOUSEHOLD OR ANY PERSON WITH WHOM THE EMPLOYEE RESIDES.

24 (C) PAYMENT OF COMPENSATION.--ALL COMPENSATION REQUIRED TO
25 BE PAID UNDER THE PROVISIONS OF THIS SECTION SHALL BE PAID TO
26 THE EMPLOYEE IN THE SAME MANNER AND AT THE SAME TIME THE
27 EMPLOYEE WOULD HAVE RECEIVED THE EMPLOYEE'S SALARY IF ACTUALLY
28 ENGAGED IN THE PERFORMANCE OF THE EMPLOYEE'S DUTIES.

29 SECTION 904. EFFECT ON EXISTING ARBITRATION AWARDS.

30 THE PRECEDENTIAL EFFECT OF ANY ARBITRATION AWARD OR OPINION

1 ISSUED OR PENDING PRIOR TO THE EFFECTIVE DATE OF THIS SECTION
2 PURSUANT TO A COLLECTIVE BARGAINING AGREEMENT AUTHORIZED BY THE
3 ACT OF JULY 23, 1970 (P.L.563, NO.195), KNOWN AS THE PUBLIC
4 EMPLOYE RELATIONS ACT, SHALL NOT BE DIMINISHED, ALTERED OR IN
5 ANY MANNER LIMITED BY ANY REPEAL MADE IN THIS ACT.

6 CHAPTER 9 11 ←

7 MISCELLANEOUS PROVISIONS

8 Section ~~901~~ 1101. Repeals. ←

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

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

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

15 (2) The act of April 15, 1859 (P.L.680, No.681),
16 entitled "A supplement to an act to provide for the due
17 training of Teachers for the Common Schools of the State,
18 passed on the twentieth of May, one thousand eight hundred
19 and fifty-seven."

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

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

24 Section ~~902~~ 1102. Effective date. ←

25 This act shall take effect in 60 days.