

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1008 Session of
2011

INTRODUCED BY D. WHITE, APRIL 28, 2011

REFERRED TO EDUCATION, APRIL 28, 2011

AN ACT

1 Modernizing the State System of Higher Education.

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7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 CHAPTER 1

10 GENERAL PROVISIONS

11 Section 101. Short title.

12 This act shall be known and may be cited as the Commonwealth
13 Higher Education Modernization Act of 2011.

14 Section 102. Purposes.

15 The General Assembly recognizes the following public policy
16 purposes:

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

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

23 (3) The State-owned universities are vital economic
24 drivers in the communities where they are located. In order
25 to maximize their value to this Commonwealth and its
26 citizens, it is important that the system and State-owned
27 universities have the ability to assist PASSHE employees in
28 developing academic research and other intellectual property
29 that can lead to jobs and other economic development within
30 this Commonwealth.

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

Section 103. Definitions.

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

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

"Board." The Board of Governors of the State System of Higher Education.

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

"Immediate family member." A parent, spouse, child, brother or sister.

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

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

"System." The State System of Higher Education.

1 CHAPTER 2

2 ECONOMIC DEVELOPMENT

3 Section 201. Applicability of chapter.

4 The chapter shall apply to all economic development
5 transactions entered into by State-owned universities and PASSHE
6 employees.

7 Section 202. Authorization.

8 State-owned universities and PASSHE employees shall have the
9 ability to enter into agreements for economic development
10 transactions that inure to the benefit of the State-owned
11 university and PASSHE employees.

12 Section 203. Approval and notice.

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

21 Section 204. Limitations.

22 Nothing in this act shall alter, impair or limit the terms or
23 conditions of any sponsorship agreement, grant agreement,
24 collective bargaining agreement or other contract. This act
25 shall not authorize the unlawful use of public resources by
26 private individuals in the development of intellectual property.

27 CHAPTER 3

28 RELATIONS WITH PRIVATE AFFILIATED ENTITIES

29 Section 301. Applicability of chapter.

30 This chapter shall govern the relationships between the

1 system or a State-owned university and affiliated entities that
2 are incorporated for the sole purpose of benefiting the system
3 or a State-owned university.

4 Section 302. Criteria.

5 In order for this chapter to apply, the affiliated entity
6 must exist for the sole purpose of benefiting the system or a
7 State-owned university. Such affiliated entities may raise and
8 utilize nonpublic funds to benefit and promote the system or a
9 State-owned university. A formal, written affiliation agreement
10 must establish the relationship between the government entity
11 and the affiliated entity and the system or State-owned
12 university. Such affiliation agreements must set forth all of
13 the terms and conditions of the relationship between the parties
14 and must comply with all policies or requirements established by
15 the board. All formal, written affiliation agreements must be
16 submitted to the board and made available to the public.

17 Section 303. Authorized transactions.

18 (a) General rule.--PASSHE employees may voluntarily provide
19 services to an affiliated entity as part of the mission of the
20 system or State-owned university, and these services shall not
21 be a violation of the act of July 19, 1957 (P.L.1017, No.451),
22 known as the State Adverse Interest Act.

23 (b) Roles.--PASSHE employees may serve as agents, officers
24 or representatives of the affiliated entity. Any employees
25 serving in such roles shall clearly identify themselves as
26 agents of the affiliated entity when serving in that capacity
27 and specify that they are not representing the system or State-
28 owned university in such instances and transactions.

29 (c) Activities.--The system and State-owned universities may
30 coordinate and jointly engage in fundraising activities with an

1 affiliated entity in order to raise money for the affiliated
2 entity as long as such funds directly inure to the benefit of
3 the system or State-owned university for the purposes set forth
4 in this act.

5 Section 304. Prohibition.

6 No PASSHE employee or immediate family member of such
7 employee serving in any capacity with an affiliated entity may
8 receive a thing of monetary value from the affiliated entity
9 except tokens presented or provided for such service which are
10 of de minimis economic value.

11 Section 305. Limitations.

12 Nothing in this chapter shall be construed as authorizing or
13 granting power to the affiliated entity at any time or in any
14 manner to enter into any transactions or any agreements on
15 behalf of the system or State-owned university nor shall the
16 system or a State-owned university be responsible for the
17 payment of any debts or satisfying any obligations incurred by
18 the affiliated entity.

19 Section 306. Status.

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

25 CHAPTER 4

26 DOCTORAL DEGREES

27 Section 401. Authorization.

28 In addition to Indiana University of Pennsylvania, all State-
29 owned universities shall have the authority to provide graduate
30 instruction at the doctoral level in areas of study leading to

professional doctorates, also known as applied doctorates. The offering of professional doctorate degrees does not need to be done in conjunction with any other institution chartered to do work at the doctoral level. The authorization does not include the Doctor of Philosophy (Ph.D.) degree, which shall only be offered through Indiana University of Pennsylvania.

Section 402. Parameters.

State-owned universities must comply with all criteria established by the board and satisfy all requirements deemed necessary by the board in order to provide doctoral-level degrees. Such criteria shall include, but not be limited to, institutional mission, plan and readiness need for the program, academic integrity, cooperation with other State-owned universities, agencies or organizations, assessment and accreditation, resource sufficiency and educational opportunity. All doctoral degree programs must be approved by the board prior to a State-owned university offering such degree program.

CHAPTER 5

MISCELLANEOUS PROVISIONS

Section 501. Repeal.

(a) Specific.--

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

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

(3) The act of January 18, 1952 (1951 P.L.2111, No.600),

referred to as the State College Faculty Compensation Law.

(b) Inconsistent.--

(1) The act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act is repealed to the extent necessary to effectuate the purpose of this act.

(2) Section 1103(a) of Title 65 of the Pennsylvania Consolidated Statutes is repealed to the extent necessary to effectuate the purpose of this act.

Section 502. Effective date.

This act shall take effect in 60 days.