

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 2171 Session of  
2020

INTRODUCED BY SONNEY, TOPPER, SCHROEDER, BENNINGHOFF, BIZZARRO,  
BROWN, EVERETT, GAYDOS, HARKINS, JAMES, JONES, KORTZ, MASSER,  
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ROAE, ROTHMAN, ROZZI, SAYLOR, STAATS, STRUZZI, BRIGGS,  
SCHLEGEL CULVER, MERSKI AND GLEIM, JANUARY 22, 2020

AS REPORTED FROM COMMITTEE ON EDUCATION, HOUSE OF  
REPRESENTATIVES, AS AMENDED, APRIL 29, 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 establishment of the State  
7 System of Higher Education and its institutions, for board of  
8 governors, for the chancellor, for powers and duties of the  
9 board of governors, for councils of trustees, for powers and  
10 duties of councils of trustees and for power and duties of  
11 institution presidents.

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

14 Section 1. Section 2002-A(a) introductory paragraph of the  
15 act of March 10, 1949 (P.L.30, No.14), known as the Public  
16 School Code of 1949, is amended and the section is amended by  
17 adding ~~a subsection~~ SUBSECTIONS to read: <--

18 Section 2002-A. Establishment of the State System of Higher  
19 Education and its Institutions.--(a) Subject to the regulatory  
20 powers conferred by law upon the State Board of Education, there

1 is hereby established a body corporate and politic constituting  
2 a public corporation and government instrumentality [which  
3 shall] to be known as the State System of Higher Education,  
4 independent of the Department of Education, hereinafter referred  
5 to as the system, which shall consist of the following  
6 institutions and such other institutions, presently existing [or  
7 newly created, as may hereafter be admitted by the board in  
8 concurrence with other agencies as required by law] or until  
9 changed as provided under subsection (a.1):

10 \* \* \*

11 (a.1) In accordance with section 2006-A(a)(13.2), the board  
12 shall develop policies and procedures by which the board may  
13 create, expand, consolidate, transfer, affiliate, dissolve or  
14 close an institution or college. Before the creation, expansion,  
15 consolidation, transfer, affiliation, dissolution or closure of  
16 an institution or college, the board shall assess the respective <--  
17 university's or college's financial stability, including student  
18 support metrics, student success metrics and financial metrics.

19 DIRECT THE CHANCELLOR TO CONDUCT A REVIEW OF THE FINANCIAL <--  
20 STABILITY OF THE INSTITUTION OR COLLEGE UTILIZING STUDENT  
21 SUPPORT METRICS, STUDENT SUCCESS METRICS AND OTHER FINANCIAL  
22 METRICS AND ISSUE A REPORT AND RECOMMENDATION RELATED TO THE  
23 NEED FOR THE BOARD TO EXERCISE THE BOARD'S POWERS UNDER SECTION  
24 2006-A(A)(13.2). THE REPORT SHALL INCLUDE, BUT NOT BE LIMITED  
25 TO, AN ANALYSIS OF THE FOLLOWING:

26 (1) ENROLLMENT TRENDS.

27 (2) PROJECTIONS OF REVENUES AND EXPENDITURES FOR THE CURRENT  
28 YEAR AND THE NEXT FIVE (5) YEARS, BOTH ASSUMING THE CONTINUATION  
29 OF PRESENT OPERATIONS AND AS IMPACTED BY ANY RECOMMENDATION FOR  
30 THE BOARD TO EXERCISE THE BOARD'S POWERS UNDER SECTION 2006-A(A)

1 (13.2).

2 (3) ASSETS, LIABILITIES AND INSTITUTIONAL RESERVES.

3 (4) ACTIONS UNDERTAKEN TO IMPROVE THE FINANCIAL STABILITY OF  
4 THE INSTITUTION OR COLLEGE AND THE FINANCIAL IMPACT OF THOSE  
5 ACTIONS.

6 (5) ADDITIONAL ACTIONS THAT COULD BE TAKEN TO IMPROVE THE  
7 FINANCIAL STABILITY OF THE INSTITUTION OR COLLEGE, THE PROJECTED  
8 FINANCIAL IMPACT OF THOSE ACTIONS AND WHETHER THOSE ACTIONS  
9 WOULD ALLEVIATE THE NEED FOR THE BOARD TO EXERCISE THE BOARD'S  
10 POWERS UNDER SECTION 2006-A(A) (13.2).

11 (6) THE FINANCIAL IMPACT ON THE INSTITUTION OR COLLEGE AND  
12 THE SYSTEM IF NO ACTION IS TAKEN BY THE BOARD TO EXERCISE THE  
13 BOARD'S POWERS UNDER SECTION 2006-A(A) (13.2).

14 (A.2) A CHANCELLOR SHALL ISSUE THE REPORT REQUIRED UNDER  
15 SUBSECTION (A.1) UPON REQUEST FROM THE BOARD. WITHIN THIRTY (30)  
16 DAYS AFTER RECEIPT OF THE CHANCELLOR'S REPORT, THE BOARD SHALL  
17 DO THE FOLLOWING:

18 (1) TRANSMIT A COPY OF THE REPORT AND RECOMMENDATIONS TO THE  
19 FOLLOWING:

20 (I) CHAIRPERSON AND MINORITY CHAIRPERSON OF THE  
21 APPROPRIATIONS COMMITTEE OF THE SENATE;

22 (II) CHAIRPERSON AND MINORITY CHAIRPERSON OF THE EDUCATION  
23 COMMITTEE OF THE SENATE;

24 (III) CHAIRPERSON AND MINORITY CHAIRPERSON OF THE  
25 APPROPRIATIONS COMMITTEE OF THE HOUSE OF REPRESENTATIVES; AND

26 (IV) CHAIRPERSON AND MINORITY CHAIRPERSON OF THE EDUCATION  
27 COMMITTEE OF THE HOUSE OF REPRESENTATIVES.

28 (2) MAKE THE REPORT AND RECOMMENDATIONS AVAILABLE FOR REVIEW  
29 AND SOLICIT PUBLIC COMMENT FOR A PERIOD OF NOT LESS THAN SIXTY  
30 (60) DAYS.

1       (A.3) THE BOARD MAY HOLD PUBLIC INFORMATIONAL MEETINGS OR  
2 PUBLIC HEARINGS AS PART OF THE COMMENT PERIOD UNDER SUBSECTION  
3 (A.2) (2). AFTER THE PUBLIC COMMENT PERIOD AND BEFORE ANY ACTION  
4 MAY BE TAKEN PURSUANT TO SECTION 2006-A(A) (13.2), THE BOARD  
5 SHALL CONSIDER COMMENTS MADE DURING THE PUBLIC COMMENT PERIOD  
6 AND PRESENT AN IMPLEMENTATION PLAN AT A PUBLIC MEETING SUBJECT  
7 TO THE APPROVAL OR DISAPPROVAL BY THE BOARD. IF A MAJORITY OF  
8 THE BOARD VOTES TO APPROVE THE IMPLEMENTATION PLAN, THE BOARD  
9 SHALL, WITHIN FOURTEEN (14) DAYS, TRANSMIT A COPY OF THE FINAL  
10 IMPLEMENTATION PLAN TO THE FOLLOWING:

11       (1) CHAIRPERSON AND MINORITY CHAIRPERSON OF THE  
12 APPROPRIATIONS COMMITTEE OF THE SENATE.

13       (2) CHAIRPERSON AND MINORITY CHAIRPERSON OF THE EDUCATION  
14 COMMITTEE OF THE SENATE.

15       (3) CHAIRPERSON AND MINORITY CHAIRPERSON OF THE  
16 APPROPRIATIONS COMMITTEE OF THE HOUSE OF REPRESENTATIVES.

17       (4) CHAIRPERSON AND MINORITY CHAIRPERSON OF THE EDUCATION  
18 COMMITTEE OF THE HOUSE OF REPRESENTATIVES.

19       \* \* \*

20       Section 2. Section 2004-A(a) (7) and (b) of the act are  
21 amended, subsection (a) is amended by adding a paragraph and the  
22 section is amended by adding a subsection to read:

23       Section 2004-A. Board of Governors.--(a) The system shall  
24 be governed and all of its corporate powers exercised by the  
25 Board of Governors, which shall consist of twenty (20) members  
26 to be appointed as follows:

27       \* \* \*

28       (7) [Fourteen (14) members shall be appointed by the  
29 Governor with the advice and consent of the Senate of which six  
30 (6) shall be selected from the citizens of the Commonwealth.]

1 Three (3) members of the fourteen (14) shall be students whose  
2 terms shall expire upon graduation, separation or failure to  
3 maintain good academic standards at their institution and five  
4 (5) of the fourteen (14) shall be trustees of constituent  
5 institutions, however, no more than one trustee representing a  
6 constituent institution. The student members shall be selected  
7 from the presidents of the local campus student government  
8 associations, or their local equivalent.] Eleven (11) members  
9 shall be appointed by the Governor with the advice and consent  
10 of the Senate of which six (6) members shall be selected from  
11 the residents of this Commonwealth and five (5) members shall be  
12 selected from trustees of constituent institutions, except that  
13 no more than one trustee may represent a constituent  
14 institution. A member appointed under this subsection shall have  
15 expertise or substantial experience in one or more area,  
16 including postsecondary education, finance, business, nonprofit  
17 management, law or public administration.

18 (8) Three (3) of the members shall be students appointed by  
19 the board under section 2006-A(a)(13.4). The student members  
20 shall be selected with the advice and consent of institution  
21 presidents. A student's term shall expire upon graduation,  
22 separation or failure to maintain good academic standing at the  
23 institution in which the student is enrolled.

24 (b) All members of the board appointed by the Governor[,  
25 except for the students,] shall serve for terms of four (4)  
26 years. The Governor and Secretary of Education shall serve so  
27 long as they continue in office. Members of the board appointed  
28 from the General Assembly shall serve a term of office  
29 concurrent with their respective elective terms as members of  
30 the General Assembly.

1 \* \* \*

2 (d.1) A board member appointed under subsection (a) (7) may  
3 be removed for cause by the Governor. A board member appointed  
4 under subsection (a) (8) may be removed by the board.

5 \* \* \*

6 Section 3. Section 2005-A(4) of the act is amended to read:

7 Section 2005-A. The Chancellor.--The chief executive officer  
8 of the system shall be a chancellor, who shall be employed by  
9 the board in accordance with clause (1) of section 2006-A. In  
10 addition to those prescribed by the board, the chancellor shall  
11 have the following duties:

12 \* \* \*

13 (4) The chancellor shall assist the board in its appointment  
14 of the presidents for the constituent institutions by submitting  
15 to the board the name or names of individuals recommended by the  
16 council of trustees [of the appropriate constituent institution  
17 who shall involve students, faculty and alumni in the interview  
18 and selection process used to formulate their recommendation].

19 The chancellor shall submit to the board the recommended salary  
20 and other proposed terms of each such appointment. The board  
21 shall have the right to refuse the recommendation of the local  
22 council and to request that additional recommendations be  
23 submitted by the council.

24 \* \* \*

25 Section 4. Section 2006-A(a) introductory paragraph, (5),  
26 (14) and (15) of the act are amended and the subsection is  
27 amended by adding paragraphs to read:

28 Section 2006-A. Powers and Duties of the Board of  
29 Governors.--(a) The Board of Governors shall have [overall  
30 responsibility for planning and coordinating the development and

1 operation of the system. The powers and duties of the Board of  
2 Governors shall be:] plenary power to make, issue and enforce  
3 board policies, procedures and standards for the full  
4 management, control and conduct of the instructional,  
5 administrative and financial affairs of the system, including  
6 powers and duties:

7 \* \* \*

8 (5) To [create] approve new undergraduate and graduate  
9 degree programs, which shall not be subject to the rules and  
10 regulations of the State Board of Education; to approve  
11 extension campuses and new external degree programs subject to  
12 the rules and regulations of the State Board of Education; to  
13 promote cooperation among institutions, including the  
14 development of consortia within the system and other educational  
15 institutions and agencies.

16 \* \* \*

17 (13.2) To create, expand, consolidate, transfer, affiliate,  
18 dissolve or close an institution or college.

19 (13.3) To require institutions to share services and to  
20 participate in collaborations.

21 (13.4) To appoint student members to the board and councils.

22 (14) To make all reasonable [rules and regulations] policies  
23 and procedures necessary to carry out the purposes of this  
24 article and the duties of the board.

25 (15) To do and perform generally all of those things  
26 necessary and required to accomplish the role and objectives of  
27 the system, unless otherwise delegated by the board to the  
28 chancellor.

29 \* \* \*

30 Section 5. Sections 2008-A, 2009-A and 2010-A introductory

1 paragraph, (1), (2), (5), (10.1), (11), (12), (13) and (14) of  
2 the act are amended to read:

3 Section 2008-A. Councils of Trustees.--(a) The council of  
4 each of the institutions shall consist of eleven (11) members  
5 who, except for student members, shall be nominated and  
6 appointed by the Governor with the advice and consent of the  
7 Senate. At least two (2) members of the eleven (11) member  
8 council of trustees shall be alumni of the institution. Except  
9 for student trustees, a trustee appointed under this subsection  
10 shall have expertise or substantial experience in one or more  
11 area, including postsecondary education, finance, business,  
12 nonprofit management, law or public administration.

13 (b) [Ten (10) members of each council shall serve terms of  
14 six (6) years, respectively, and until their respective  
15 successors are duly appointed and qualified. One (1) member of  
16 each council shall be a full-time undergraduate student in good  
17 academic standing, other than freshman, enrolled for at least  
18 twelve (12) semester hours at the institution of which he is a  
19 trustee. The student member shall serve a term of four (4) years  
20 or for so long as he is a full-time undergraduate student in  
21 attendance at the institution of which he is a trustee,  
22 whichever period is shorter, and is in good academic standing.  
23 Vacancies occurring before the expiration of the term of any  
24 member shall be filled in like manner for the unexpired term.  
25 Student members of the Council of Trustees shall be appointed by  
26 the Governor and shall not be subject to Senate confirmation. If  
27 a student member is temporarily unable, for medical or valid  
28 academic reasons, to fulfill the responsibilities of office, the  
29 Council of Trustees may request that the Governor appoint an  
30 otherwise qualified student to serve as an alternate until the



1 return of the student member.

2 (c) The members of each board of trustees of a former State  
3 college or university serving in such capacity on the effective  
4 date of this act shall continue to serve for the balance of  
5 their respective terms.] Ten (10) members of each council shall  
6 serve terms of four (4) years, respectively and until their  
7 respective successors are duly appointed.

8 (b.1) One (1) member of each council shall be a student  
9 appointed by the board under section 2006-A(a) (13.4). The  
10 student member shall serve a term of four (4) years or for so  
11 long as the student is a full-time student in attendance at the  
12 institution of which the student is a trustee, whichever period  
13 is shorter, and is in good academic standing. If a student  
14 member is temporarily unable, for medical or valid academic  
15 reasons, to fulfill the responsibilities of office, the Council  
16 of Trustees may appoint an otherwise qualified student to serve  
17 as an alternate until the return of the student member.

18 (b.2) A trustee appointed under subsections (a) and (b.1)  
19 may be removed for cause by the ~~board~~ GOVERNOR. <--

20 (b.3) Vacancies occurring before the expiration of the term  
21 of any member shall be filled in like manner for the unexpired  
22 term.

23 (d) Six (6) members of a council shall constitute a quorum.  
24 Each council shall select from its members a chairperson and a  
25 secretary to serve at the pleasure of the council. Each council  
26 shall meet at least quarterly, and additionally at the call of  
27 the president, or its chairperson, or upon request of three (3)  
28 of its members.

29 Section 2009-A. Powers and Duties of Councils of Trustees.--

30 (a) In accordance with [the rules and regulations] policies,

1 procedures and standards adopted by the board, the council of  
2 each institution shall have the power and its duty shall be:

3 (1) To make recommendations to the chancellor for the  
4 appointment[, ] and retention [or dismissal] of the president  
5 following [consultation with] input by students, faculty, staff  
6 and alumni.

7 (1.1) To make recommendations to the chancellor for the  
8 dismissal of the president.

9 (2) To assist the president in developing proper relations  
10 and understanding between the institution and its programs and  
11 the public, in order to serve the interests and needs of both.

12 [(3) To review and approve the recommendations of the  
13 president as to standards for the admission, discipline and  
14 expulsion of students.]

15 (4) To review and [approve the recommendations of] provide  
16 input to the president pertaining to policies and procedures  
17 governing the use of institutional facilities and property.

18 (5) To approve schools and academic programs.

19 (6) To review and approve the recommendations of the  
20 president pertaining to annual operating and capital budget  
21 requirements for forwarding to the board.

22 (7) To review and approve charges for tuition, room and  
23 board and other fees except student activity fees and any fees  
24 related to the provision of contracted health services.

25 [(8) To conduct an annual physical inspection of facilities  
26 and make recommendations regarding maintenance and construction  
27 to the board.]

28 (9) To review [and approve all] contracts and purchases  
29 negotiated or awarded by the president, including any contract  
30 or purchase reports, with or without competitive bidding and all

1 contracts for consultative services entered by the president.

2 (10) To represent the institution at official functions of  
3 the Commonwealth.

4 (11) To take such other action as may be necessary to  
5 effectuate the powers and duties herein delegated.

6 (12) In accordance with the evaluation procedure established  
7 by the board each council shall conduct an evaluation of the  
8 president and forward the results of that evaluation with  
9 recommendation to the chancellor for submission to the board.

10 (13) By resolution adopted by the council to authorize  
11 campus police who have completed firearms training in accordance  
12 with 53 Pa.C.S. § 2167(a) (relating to police training) to carry  
13 firearms in the course of duty for any institution whose campus  
14 police are authorized to carry firearms on the effective date of  
15 this paragraph, the authority to carry firearms shall remain in  
16 effect unless the council by resolution dissolves such  
17 authority.

18 Section 2010-A. Power and Duties of Institution  
19 Presidents.--The president of each institution shall be  
20 appointed by the board. The president shall be the chief  
21 executive officer of that institution. [He] The president shall  
22 have the right to attend all meetings of the council of that  
23 institution and shall have the right to speak on all matters  
24 before the council but not to vote. Subject to the stated  
25 authority of the board and the council, each president shall  
26 have the following powers and duties:

27 (1) Except insofar as such matters are governed by  
28 collective bargaining agreements entered pursuant to the act of  
29 July 23, 1970 (P.L.563, No.195), known as the "Public Employe  
30 Relations Act," and subject to the policies of the board, to

1 appoint such employes, professional and noninstructional,  
2 graduate assistants, etc. as necessary, to fix the salaries and  
3 [benefits of employes, professional and noninstructional, and to  
4 establish policies and procedures governing employment rights,  
5 promotion, dismissal, tenure, leaves of absence, grievances and]  
6 salary schedules.

7 (2) To make and implement specific campus policies  
8 pertaining to instructional programs, research programs and  
9 public service programs and define academic standards in  
10 accordance with policies of the board [following consultation  
11 with the council, faculty and students].

12 \* \* \*

13 (5) To establish policies and procedures governing the use  
14 of institutional facilities and property in [accordance with  
15 guidelines established by] consultation with the local council.

16 \* \* \*

17 (10.1) Within the limitations of the operating budget and  
18 other available funds in accordance with the procedures  
19 established by the board [and with the approval of the local  
20 council,] to negotiate and award all contracts for equipment,  
21 services and supplies in excess of a cost of a base amount of  
22 eighteen thousand five hundred dollars (\$18,500), subject to  
23 adjustment under section [120] 2003-A.1(c.3), on a competitive  
24 bid basis [and]. Contracts to purchase instructional,  
25 educational, extracurricular, technical, administrative,  
26 custodial and maintenance equipment and supplies not in excess  
27 of a cost of a base amount of eighteen thousand five hundred  
28 dollars (\$18,500), subject to adjustment under section [120]  
29 2003-A.1(c.3), may be procured, without competitive bidding,  
30 except that such items shall not be bought in series to avoid

1 the dollar ceiling.

2 (11) To cooperate with and accept grants and assistance from  
3 Federal and State agencies, local governments or other political  
4 subdivisions, foundations, corporations, or any other source for  
5 any of the lawful purposes of the institution. Each institution  
6 shall have the power to bank and use such grants as directed by  
7 the grantor in accordance with applicable board policy and  
8 subject to the limitations of this act[, except that grants and  
9 assistance from sources other than State agencies, local  
10 governments or other political subdivisions shall not be subject  
11 to the provisions of clause (10)]. All moneys received from  
12 sources authorized by this section are hereby appropriated to  
13 each of the several institutions granted such moneys. All such  
14 moneys shall be subject to audit by the Auditor General.

15 (12) To authorize personnel to travel within or without the  
16 Commonwealth at institutional expense [in accordance with  
17 regulations of the council].

18 (13) Within the limitations of the operating budget and  
19 other available funds, to enter into contracts for consultative  
20 service [not to exceed five thousand dollars (\$5,000) per  
21 contract].

22 (14) To enter into contracts [in accordance with policies of  
23 the council,] to enable students to engage in student teaching  
24 or other training in order to obtain experience in a particular  
25 field.

26 \* \* \*

27 Section 6. All acts and parts of acts are repealed and all  
28 regulations and parts of regulations are abrogated insofar as  
29 they are inconsistent with this act.

30 Section 7. This act shall take effect in 60 days.