

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, MILLARD, MOUL, MUSTELLO, OWLETT, PICKETT, RADER, ROAE, ROTHMAN, SAYLOR, STAATS, STRUZZI, BRIGGS, SCHLEGEL CULVER AND GLEIM, JANUARY 22, 2020

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MAY 19, 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 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)~~ SUBSECTIONS (A.1), <--
10 (A.2), (A.3), (A.4) AND (A.5):

11 * * *

12 (a.1) In accordance with section 2006-A(a)(13.2), the board
13 shall develop policies and procedures by which the board may
14 create, expand, consolidate, transfer, affiliate, dissolve or <--
15 close OR AFFILIATE an institution or college. Before the <--
16 creation, expansion, consolidation, transfer, OR affiliation, <--
17 dissolution or closure of an institution or college, the board
18 shall direct the chancellor, IN CONSULTATION WITH THE BOARD, to <--
19 conduct a review of the financial stability of the ANY IMPACTED <--
20 institution or college utilizing student support metrics,
21 student success metrics and other financial metrics and issue <--
22 DEVELOP a report and recommendation related to the need for the <--
23 board to exercise the board's powers under section 2006-A(a)
24 (13.2). The report AND RECOMMENDATIONS shall include, but not be <--
25 limited 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~~

17 (7) THE FINANCIAL IMPACT ON THE SURROUNDING COMMUNITY OF THE <--
18 INSTITUTION OR COLLEGE IF ACTION IS TAKEN BY THE BOARD TO
19 EXERCISE THE BOARD'S POWERS UNDER SECTION 2006-A(A) (13.2).

20 (A.2) UPON RECEIPT OF THE REPORT AND RECOMMENDATION, THE
21 BOARD SHALL DEVELOP A PROPOSED IMPLEMENTATION PLAN. THE PROPOSED
22 IMPLEMENTATION PLAN SHALL INCLUDE THE FOLLOWING INFORMATION:

23 (1) DESCRIPTION OF THE PROPOSAL TO EXERCISE POWERS UNDER
24 SECTION 2006-A(A) (13.2).

25 (2) RATIONALE, GOALS AND OBJECTIVES OF THE PROPOSAL TO
26 EXERCISE POWERS UNDER SECTION 2006-A(A) (13.2).

27 (3) METHOD FOR EVALUATING ACHIEVEMENT OF GOALS AND
28 OBJECTIVES.

29 (4) RELATION OF THE PROPOSAL TO THE MISSION AND STRATEGIC
30 PLAN OF THE INSTITUTION OR COLLEGE AND SYSTEM AS A WHOLE.

1 (5) IMPACTS ON ACADEMIC PROGRAMS, NONACADEMIC UNITS AND
2 ACCREDITATION.

3 (6) IMPACTS ON STUDENT, FACULTY AND STAFF.

4 (7) IMPACTS ON THE COMMUNITY.

5 (8) IMPACTS ON SHARED GOVERNANCE.

6 (9) BEFORE AND AFTER ORGANIZATIONAL CHARTS FOR ALL IMPACTED
7 INSTITUTIONS OR COLLEGES.

8 (10) INFORMATION INCLUDED IN THE CHANCELLOR'S REPORT AND
9 RECOMMENDATION UNDER SUBSECTION (A.1).

10 (11) TIMELINE FOR THE IMPLEMENTATION PLAN.

11 (A.3) WITHIN FOURTEEN (14) DAYS AFTER ISSUANCE OF THE
12 PROPOSED IMPLEMENTATION PLAN, the board shall do the following:

13 (1) Transmit a copy of the ~~report and recommendations~~ <--

14 PROPOSED IMPLEMENTATION PLAN to the following: <--

15 (i) chairperson and minority chairperson of the
16 Appropriations Committee of the Senate;

17 (ii) chairperson and minority chairperson of the Education
18 Committee of the Senate;

19 (iii) chairperson and minority chairperson of the
20 Appropriations Committee of the House of Representatives; and

21 (iv) chairperson and minority chairperson of the Education
22 Committee of the House of Representatives.

23 (2) Make the ~~report and recommendations~~ PROPOSED <--

24 IMPLEMENTATION PLAN available for review and solicit public

25 comment for a period of not less than ~~sixty (60)~~ NINETY (90) <--

26 days.

27 ~~(a.3) The board may hold public informational meetings or~~ <--

28 ~~public hearings as part of the comment period under subsection~~

29 ~~(a.2) (2). After the public comment period and before any action~~

30 ~~may be taken pursuant to section 2006 A(a)(13.2), the board~~

1 ~~shall consider comments made during the public comment period~~
2 ~~and present an implementation plan at a public meeting subject~~
3 ~~to the approval or disapproval by the board. If a majority of~~
4 ~~the board votes to approve the implementation plan, the board~~
5 ~~shall, within fourteen (14) days, transmit a copy of the final~~
6 ~~implementation plan to the following:~~

7 (A.4) THE BOARD SHALL CONSULT WITH STAKEHOLDERS, INCLUDING <--
8 FACULTY, STAFF, STUDENTS AND ADMINISTRATORS, AND HOLD AT LEAST
9 TWO (2) PUBLIC HEARINGS AS PART OF THE PUBLIC COMMENT PERIOD
10 UNDER SUBSECTION (A.3) (2). AFTER THE PUBLIC COMMENT PERIOD AND
11 BEFORE ANY ACTION MAY BE TAKEN PURSUANT TO SECTION 2006-A(A)
12 (13.2), THE BOARD SHALL CONSIDER COMMENTS MADE BY STAKEHOLDERS
13 DURING THE PUBLIC COMMENT PERIOD AND PRESENT A FINAL
14 IMPLEMENTATION PLAN AT A PUBLIC MEETING SUBJECT TO THE APPROVAL
15 BY A MAJORITY OF THE BOARD. IF THE BOARD VOTES TO APPROVE THE
16 IMPLEMENTATION PLAN, THE BOARD SHALL, WITHIN FOURTEEN (14) DAYS,
17 TRANSMIT A COPY OF THE FINAL IMPLEMENTATION PLAN TO THE
18 FOLLOWING:

19 (1) Chairperson and minority chairperson of the
20 Appropriations Committee of the Senate.

21 (2) Chairperson and minority chairperson of the Education
22 Committee of the Senate.

23 (3) Chairperson and minority chairperson of the
24 Appropriations Committee of the House of Representatives.

25 (4) Chairperson and minority chairperson of the Education
26 Committee of the House of Representatives.

27 (A.5) THE TIMELINE FOR IMPLEMENTATION TO BE COMPLETED AS <--
28 DESCRIBED IN THE FINAL IMPLEMENTATION PLAN SHALL BE NO EARLIER
29 THAN TWELVE (12) MONTHS FROM THE DATE OF THE ISSUANCE OF THE
30 PROPOSED IMPLEMENTATION PLAN.

1 * * *

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

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

9 * * *

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

30 (8) Three (3) of the members shall be students appointed by

1 the board under section 2006-A(a)(13.4). The student members
2 shall be selected with the advice and consent of institution
3 presidents. A student's term shall expire upon graduation,
4 separation or failure to maintain good academic standing at the
5 institution in which the student is enrolled.

6 (b) All members of the board appointed by the Governor[,
7 except for the students,] shall serve for terms of four (4)
8 years. The Governor and Secretary of Education shall serve so
9 long as they continue in office. Members of the board appointed
10 from the General Assembly shall serve a term of office
11 concurrent with their respective elective terms as members of
12 the General Assembly.

13 * * *

14 (d.1) A board member appointed under subsection (a)(7) may
15 be removed for cause by the Governor. A board member appointed
16 under subsection (a)(8) may be removed by the board.

17 * * *

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

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

24 * * *

25 (4) The chancellor shall assist the board in its appointment
26 of the presidents for the constituent institutions by submitting
27 to the board the name or names of individuals recommended by the
28 council of trustees [of the appropriate constituent institution
29 who shall involve students, faculty and alumni in the interview
30 and selection process used to formulate their recommendation].

1 The chancellor shall submit to the board the recommended salary
2 and other proposed terms of each such appointment. The board
3 shall have the right to refuse the recommendation of the local
4 council and to request that additional recommendations be
5 submitted by the council.

6 * * *

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

10 Section 2006-A. Powers and Duties of the Board of
11 Governors.--(a) The Board of Governors shall have [overall
12 responsibility for planning and coordinating the development and
13 operation of the system. The powers and duties of the Board of
14 Governors shall be:] plenary power to make, issue and enforce
15 board policies, procedures and standards for the full
16 management, control and conduct of the instructional,
17 administrative and financial affairs of the system, including
18 powers and duties:

19 * * *

20 (5) To [create] approve new undergraduate and graduate
21 degree programs, which shall not be subject to the rules and
22 regulations of the State Board of Education; to approve
23 extension campuses and new external degree programs subject to
24 the rules and regulations of the State Board of Education; to
25 promote cooperation among institutions, including the
26 development of consortia within the system and other educational
27 institutions and agencies.

28 * * *

29 (13.2) To create, expand, consolidate, transfer, affiliate, <--
30 dissolve or close OR AFFILIATE an institution or college. <--

1 (13.3) To require institutions to share services and to
2 participate in collaborations.

3 (13.4) To appoint student members to the board and councils.

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

7 (15) To do and perform generally all of those things
8 necessary and required to accomplish the role and objectives of
9 the system, unless otherwise delegated by the board to the
10 chancellor.

11 * * *

12 Section 5. Sections 2008-A, 2009-A and 2010-A introductory
13 paragraph, (1), ~~(2)~~, (5), (10.1), (11), (12), (13) and (14) of <--
14 the act are amended to read:

15 Section 2008-A. Councils of Trustees.--(a) The council of
16 each of the institutions shall consist of eleven (11) members
17 who, except for student members, shall be nominated and
18 appointed by the Governor with the advice and consent of the
19 Senate. At least two (2) members of the eleven (11) member
20 council of trustees shall be alumni of the institution. Except
21 for student trustees, a trustee appointed under this subsection
22 shall have expertise or substantial experience in one or more
23 area, including postsecondary education, finance, business,
24 nonprofit management, law or public administration.

25 (b) [Ten (10) members of each council shall serve terms of
26 six (6) years, respectively, and until their respective
27 successors are duly appointed and qualified. One (1) member of
28 each council shall be a full-time undergraduate student in good
29 academic standing, other than freshman, enrolled for at least
30 twelve (12) semester hours at the institution of which he is a

1 trustee. The student member shall serve a term of four (4) years
2 or for so long as he is a full-time undergraduate student in
3 attendance at the institution of which he is a trustee,
4 whichever period is shorter, and is in good academic standing.
5 Vacancies occurring before the expiration of the term of any
6 member shall be filled in like manner for the unexpired term.
7 Student members of the Council of Trustees shall be appointed by
8 the Governor and shall not be subject to Senate confirmation. If
9 a student member is temporarily unable, for medical or valid
10 academic reasons, to fulfill the responsibilities of office, the
11 Council of Trustees may request that the Governor appoint an
12 otherwise qualified student to serve as an alternate until the
13 return of the student member.

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

20 (b.1) One (1) member of each council shall be a student
21 appointed by the board under section 2006-A(a)(13.4). The
22 student member shall serve a term of four (4) years or for so
23 long as the student is a full-time student in attendance at the
24 institution of which the student is a trustee, whichever period
25 is shorter, and is in good academic standing. If a student
26 member is temporarily unable, for medical or valid academic
27 reasons, to fulfill the responsibilities of office, the Council
28 of Trustees may appoint an otherwise qualified student to serve
29 as an alternate until the return of the student member.

30 (b.2) A trustee appointed under subsections (a) and (b.1)

1 may be removed for cause by the Governor.

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

5 (d) Six (6) members of a council shall constitute a quorum.
6 Each council shall select from its members a chairperson and a
7 secretary to serve at the pleasure of the council. Each council
8 shall meet at least quarterly, and additionally at the call of
9 the president, or its chairperson, or upon request of three (3)
10 of its members.

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

12 (a) In accordance with [the rules and regulations] policies,
13 procedures and standards adopted by the board, the council of
14 each institution shall have the power and its duty shall be:

15 (1) To make recommendations to the chancellor for the
16 appointment[,] and retention [or dismissal] of the president
17 following [consultation with] input by students, faculty, staff
18 and alumni.

19 (1.1) To make recommendations to the chancellor for the
20 dismissal of the president.

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

24 [(3) To review and approve the recommendations of the
25 president as to standards for the admission, discipline and
26 expulsion of students.]

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

30 (5) To approve schools and academic programs.

1 (6) To review and approve the recommendations of the
2 president pertaining to annual operating and capital budget
3 requirements for forwarding to the board.

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

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

10 (9) To review [and approve all] contracts and purchases
11 negotiated or awarded by the president, including any contract
12 or purchase reports, with or without competitive bidding and all
13 contracts for consultative services entered by the president.

14 (10) To represent the institution at official functions of
15 the Commonwealth.

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

18 (12) In accordance with the evaluation procedure established
19 by the board each council shall conduct an evaluation of the
20 president and forward the results of that evaluation with
21 recommendation to the chancellor for submission to the board.

22 (13) By resolution adopted by the council to authorize
23 campus police who have completed firearms training in accordance
24 with 53 Pa.C.S. § 2167(a) (relating to police training) to carry
25 firearms in the course of duty for any institution whose campus
26 police are authorized to carry firearms on the effective date of
27 this paragraph, the authority to carry firearms shall remain in
28 effect unless the council by resolution dissolves such
29 authority.

30 Section 2010-A. Power and Duties of Institution

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

9 (1) Except insofar as such matters are governed by
10 collective bargaining agreements entered pursuant to the act of
11 July 23, 1970 (P.L.563, No.195), known as the "Public Employe
12 Relations Act," and subject to the policies of the board, to
13 appoint such employes, professional and noninstructional,
14 graduate assistants, etc. as necessary, to fix the salaries and
15 [benefits of employes, professional and noninstructional, and to
16 establish policies and procedures governing employment rights,
17 promotion, dismissal, tenure, leaves of absence, grievances and]
18 salary schedules.

19 ~~(2) To make and implement specific campus policies~~ <--
20 ~~pertaining to instructional programs, research programs and~~
21 ~~public service programs and define academic standards in~~
22 ~~accordance with policies of the board [following consultation~~
23 ~~with the council, faculty and students].~~

24 * * *

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

28 * * *

29 (10.1) Within the limitations of the operating budget and
30 other available funds in accordance with the procedures

1 established by the board [and with the approval of the local
2 council,] to negotiate and award all contracts for equipment,
3 services and supplies in excess of a cost of a base amount of
4 eighteen thousand five hundred dollars (\$18,500), subject to
5 adjustment under section [120] 2003-A.1(c.3), on a competitive
6 bid basis [and]. Contracts to purchase instructional,
7 educational, extracurricular, technical, administrative,
8 custodial and maintenance equipment and supplies not in excess
9 of a cost of a base amount of eighteen thousand five hundred
10 dollars (\$18,500), subject to adjustment under section [120]
11 2003-A.1(c.3), may be procured, without competitive bidding,
12 except that such items shall not be bought in series to avoid
13 the dollar ceiling.

14 (11) To cooperate with and accept grants and assistance from
15 Federal and State agencies, local governments or other political
16 subdivisions, foundations, corporations, or any other source for
17 any of the lawful purposes of the institution. Each institution
18 shall have the power to bank and use such grants as directed by
19 the grantor in accordance with applicable board policy and
20 subject to the limitations of this act[, except that grants and
21 assistance from sources other than State agencies, local
22 governments or other political subdivisions shall not be subject
23 to the provisions of clause (10)]. All moneys received from
24 sources authorized by this section are hereby appropriated to
25 each of the several institutions granted such moneys. All such
26 moneys shall be subject to audit by the Auditor General.

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

30 (13) Within the limitations of the operating budget and

1 other available funds, to enter into contracts for consultative
2 service [not to exceed five thousand dollars (\$5,000) per
3 contract].

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

8 * * *

9 Section 6. All acts and parts of acts are repealed and all
10 regulations and parts of regulations are abrogated insofar as
11 they are inconsistent with this act.

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