

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 THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 9, 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 subsections (a.1), (a.2), (a.3), (a.4)  
10 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 or affiliate an  
15 institution or college. Before the creation, expansion,  
16 consolidation, transfer or affiliation of an institution or  
17 college, the board shall direct the chancellor, in consultation  
18 with the board, to conduct a review of the financial stability  
19 of any impacted institution or college utilizing student support  
20 metrics, student success metrics and other financial metrics and  
21 develop a report and recommendation related to the need for the  
22 board to exercise the board's powers under section 2006-A(a)  
23 (13.2). The report and recommendations shall include, but not be  
24 limited to, an analysis of the following:

25 (1) Enrollment trends.

26 (2) Projections of revenues and expenditures for the current  
27 year and the next five (5) years, both assuming the continuation  
28 of present operations and as impacted by any recommendation for  
29 the board to exercise the board's powers under section 2006-A(a)  
30 (13.2).

1 (3) Assets, liabilities and institutional reserves.

2 (4) Actions undertaken to improve the financial stability of  
3 the institution or college and the financial impact of those  
4 actions.

5 (5) Additional actions that could be taken to improve the  
6 financial stability of the institution or college, the projected  
7 financial impact of those actions and whether those actions  
8 would alleviate the need for the board to exercise the board's  
9 powers under section 2006-A(a) (13.2).

10 (6) The financial impact on the institution or college and  
11 the system if no action is taken by the board to exercise the  
12 board's powers under section 2006-A(a) (13.2).

13 (7) The financial impact on the surrounding community of the  
14 institution or college if action is taken by the board to  
15 exercise the board's powers under section 2006-A(a) (13.2).

16 (a.2) Upon receipt of the report and recommendation, the  
17 board shall develop a proposed implementation plan. The proposed  
18 implementation plan shall include the following information:

19 (1) Description of the proposal to exercise powers under  
20 section 2006-A(a) (13.2).

21 (2) Rationale, goals and objectives of the proposal to  
22 exercise powers under section 2006-A(a) (13.2).

23 (3) Method for evaluating achievement of goals and  
24 objectives.

25 (4) Relation of the proposal to the mission and strategic  
26 plan of the institution or college and system as a whole.

27 (5) Impacts on academic programs, nonacademic units and  
28 accreditation.

29 (6) Impacts on student, faculty and staff.

30 (7) Impacts on the community.

1 (8) Impacts on shared governance.

2 (9) Before and after organizational charts for all impacted  
3 institutions or colleges.

4 (10) Information included in the chancellor's report and  
5 recommendation under subsection (a.1).

6 (11) Timeline for the implementation plan.

7 (a.3) THE PROPOSED IMPLEMENTATION PLAN SHALL BE APPROVED BY <--  
8 A MAJORITY VOTE OF THE BOARD. Within fourteen (14) days after  
9 issuance of the proposed implementation plan, the board shall do  
10 the following:

11 (1) Transmit a copy of the proposed implementation plan to  
12 the following:

13 (i) chairperson and minority chairperson of the  
14 Appropriations Committee of the Senate;

15 (ii) chairperson and minority chairperson of the Education  
16 Committee of the Senate;

17 (iii) chairperson and minority chairperson of the  
18 Appropriations Committee of the House of Representatives; and

19 (iv) chairperson and minority chairperson of the Education  
20 Committee of the House of Representatives.

21 (2) Make the proposed implementation plan available for  
22 review and solicit public comment for a period of not less than  
23 ninety (90) days.

24 (a.4) The board shall consult with stakeholders, including  
25 faculty, staff, students and administrators, and hold at least  
26 two (2) public hearings as part of the public comment period  
27 under subsection (a.3)(2). After the public comment period and  
28 before any action may be taken pursuant to section 2006-A(a)  
29 (13.2), the board shall consider comments made by stakeholders  
30 during the public comment period and present a final AN <--

1 implementation plan at a public meeting subject to the approval  
2 by a majority TWO-THIRDS of the board. If the board votes to  
3 approve the implementation plan, the board shall, within  
4 fourteen (14) days, transmit a copy of the final implementation  
5 plan to the following:

6 (1) Chairperson and minority chairperson of the  
7 Appropriations Committee of the Senate.

8 (2) Chairperson and minority chairperson of the Education  
9 Committee of the Senate.

10 (3) Chairperson and minority chairperson of the  
11 Appropriations Committee of the House of Representatives.

12 (4) Chairperson and minority chairperson of the Education  
13 Committee of the House of Representatives.

14 (a.5) The timeline for implementation to be completed as  
15 described in the final implementation plan shall be no earlier  
16 than twelve (12) months from the date of the issuance of the  
17 proposed implementation plan.

18 \* \* \*

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

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

26 \* \* \*

27 (7) [Fourteen (14) members shall be appointed by the  
28 Governor with the advice and consent of the Senate of which six  
29 (6) shall be selected from the citizens of the Commonwealth.  
30 Three (3) members of the fourteen (14) shall be students whose

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

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

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

30 \* \* \*

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

4 \* \* \*

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

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

11 \* \* \*

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

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

23 \* \* \*

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

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

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

6 \* \* \*

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

15 \* \* \*

16 (13.2) To create, expand, consolidate, transfer or affiliate  
17 an institution or college.

18 (13.3) To require institutions to share services and to  
19 participate in collaborations.

20 (13.4) To appoint student members to the board and councils.

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

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

28 \* \* \*

29 Section 5. Sections 2008-A, 2009-A and 2010-A introductory  
30 paragraph, (1), (5), (10.1), (11), (12), (13) and (14) of the



1 act are amended to read:

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

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

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

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

17 (b.2) A trustee appointed under subsections (a) and (b.1)  
18 may be removed for cause by the Governor.

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

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

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

29 (a) In accordance with [the rules and regulations] policies,  
30 procedures and standards adopted by the board, the council of

1 each institution shall have the power and its duty shall be:

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

6 (1.1) To make recommendations to the chancellor for the  
7 dismissal of the president.

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

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

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

17 (5) To approve schools and academic programs.

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

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

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

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

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

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

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

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

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

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

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

6 \* \* \*

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

10 \* \* \*

11 (10.1) Within the limitations of the operating budget and  
12 other available funds in accordance with the procedures  
13 established by the board [and with the approval of the local  
14 council,] to negotiate and award all contracts for equipment,  
15 services and supplies in excess of a cost of a base amount of  
16 eighteen thousand five hundred dollars (\$18,500), subject to  
17 adjustment under section [120] 2003-A.1(c.3), on a competitive  
18 bid basis [and]. Contracts to purchase instructional,  
19 educational, extracurricular, technical, administrative,  
20 custodial and maintenance equipment and supplies not in excess  
21 of a cost of a base amount of eighteen thousand five hundred  
22 dollars (\$18,500), subject to adjustment under section [120]  
23 2003-A.1(c.3), may be procured, without competitive bidding,  
24 except that such items shall not be bought in series to avoid  
25 the dollar ceiling.

26 (11) To cooperate with and accept grants and assistance from  
27 Federal and State agencies, local governments or other political  
28 subdivisions, foundations, corporations, or any other source for  
29 any of the lawful purposes of the institution. Each institution  
30 shall have the power to bank and use such grants as directed by

1 the grantor in accordance with applicable board policy and  
2 subject to the limitations of this act[, except that grants and  
3 assistance from sources other than State agencies, local  
4 governments or other political subdivisions shall not be subject  
5 to the provisions of clause (10)]. All moneys received from  
6 sources authorized by this section are hereby appropriated to  
7 each of the several institutions granted such moneys. All such  
8 moneys shall be subject to audit by the Auditor General.

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

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

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

20 \* \* \*

21 Section 6. All acts and parts of acts are repealed and all  
22 regulations and parts of regulations are abrogated insofar as  
23 they are inconsistent with this act.

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