
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2172 Session of
2020

INTRODUCED BY TOPPER, SONNEY, SCHROEDER, BENNINGHOFF, BRIGGS,
BROWN, DRISCOLL, EVERETT, GAYDOS, HARKINS, JAMES, JONES, KIM,
KORTZ, MASSER, McCLINTON, MILLARD, MOUL, MUSTELLO,
OBERLANDER, OWLETT, PICKETT, RADER, ROAE, ROTHMAN, ROZZI,
SAYLOR, SHUSTERMAN, STAATS AND STRUZZI, JANUARY 22, 2020

REFERRED TO COMMITTEE ON EDUCATION, JANUARY 22, 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 definitions, for
7 establishment of the State System of Higher Education and its
8 institutions, for purposes and general powers, for project
9 contracts, for power and duties of institution presidents,
10 for method of disposition and consideration by the General
11 Assembly and for campus police powers and duties.

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

14 Section 1. Section 2001-A of the act of March 10, 1949
15 (P.L.30, No.14), known as the Public School Code of 1949, is
16 amended by adding paragraphs to read:

17 Section 2001-A. Definitions.--The following words and
18 phrases when used in this article shall, for the purpose of this
19 article, have the following meanings, respectively, except in
20 those instances where the context clearly indicates a different
21 meaning:

1 * * *

2 (10.1) "Non-State-appropriated funds" shall mean any funds
3 that the system or an institution receives or are generated from
4 other sources, such as gifts, tuition, student fees, including
5 student activity fees, grants and assistance from Federal and
6 State agencies, a local political subdivision, foundations,
7 corporations or any other source.

8 * * *

9 (13.1) "State-appropriated funds" shall mean any funds
10 appropriated to the system by the General Assembly.

11 * * *

12 Section 2. Section 2002-A of the act is amended to read:

13 Section 2002-A. Establishment of the State System of Higher
14 Education and its Institutions.--(a) Subject to the regulatory
15 powers conferred by law upon the State Board of Education, there
16 is hereby established a body corporate and politic constituting
17 a public corporation and government instrumentality that enjoys
18 sovereign immunity and official immunity and remains immune from
19 suit as the General Assembly may specifically waive immunity,
20 which shall be known as the State System of Higher Education,
21 independent of the Department of Education, hereinafter referred
22 to as the system, which shall consist of the following
23 institutions and such other institutions, presently existing or
24 newly created, as may hereafter be admitted by the board in
25 concurrence with other agencies as required by law:

- 26 (1) Bloomsburg [State College] University of Pennsylvania;
27 (2) California [State College] University of Pennsylvania;
28 (3) Cheyney [State College] University of Pennsylvania;
29 (4) Clarion [State College] University of Pennsylvania;
30 (5) East Stroudsburg [State College] University of

- 1 Pennsylvania;
2 (6) Edinboro [State College] University of Pennsylvania;
3 (7) Indiana University of Pennsylvania;
4 (8) Kutztown [State College] University of Pennsylvania;
5 (9) Lock Haven [State College] University of Pennsylvania;
6 (10) Mansfield [State College] University of Pennsylvania;
7 (11) Millersville [State College] University of
8 Pennsylvania;
9 (12) Shippensburg [State College] University of
10 Pennsylvania;
11 (13) Slippery Rock [State College] University of
12 Pennsylvania; and
13 (14) West Chester [State College] University of
14 Pennsylvania.

15 (b) [Each of the said institutions shall hereafter be known
16 as the (Name) University of Pennsylvania of the State System of
17 Higher Education, except for Indiana University of Pennsylvania,
18 which shall retain its name.] As successor institutions to the
19 State Normal Schools, appropriations for [their] each of the
20 institutions' operation are ordinary expenses of government,
21 requiring only a majority vote of each House of the General
22 Assembly. The State System of Higher Education shall have the
23 same preferred status for appropriations as is enjoyed by its
24 constituent institutions. [State funds appropriated to the
25 system shall be allocated] Except for funds allocated for system
26 expenditures on behalf of the system's institutions, the system
27 shall allocate State-appropriated funds to the individual
28 institutions on a formula based on, but not limited to, such
29 factors as enrollments, degrees granted and programs.

30 (c) The procurement of goods, services, supplies and

1 construction procured for or by the system or institutions with
2 State-appropriated funds shall comply with the provisions of 62
3 Pa.C.S. (relating to procurement). The procurement of goods,
4 services, supplies and construction procured for or by the
5 system or institutions with non-State-appropriated funds shall
6 not be subject to the provisions of 62 Pa.C.S., but shall comply
7 with board policy.

8 (d) As a government instrumentality of the Commonwealth, any
9 real property owned and titled to the system shall be immune
10 from taxation. Local regulation of real property owned and
11 titled to the system may only occur based upon a specific grant
12 of authority to a local subdivision by the General Assembly.

13 Section 3. Section 2003-A(a) and (b) (3) of the act are
14 amended and subsection (b) is amended by adding a paragraph to
15 read:

16 Section 2003-A. Purposes and General Powers.--(a) The State
17 System of Higher Education shall be part of the Commonwealth's
18 system of higher education. Its purpose shall be to provide high
19 quality education at the lowest possible cost to [the] students.
20 The primary mission of the system is the provision of
21 instruction for undergraduate and graduate students to and
22 beyond the master's degree in the liberal arts and sciences and
23 in applied fields, including the teaching profession. Graduate
24 instruction at the doctoral level, except for doctoral programs
25 provided for in the act of December 16, 1965 (P.L.1113, No.430),
26 known as the "Indiana University of Pennsylvania Act," only may
27 be offered jointly with Indiana University or an institution
28 chartered to offer work at the doctoral level. Programs of
29 research and service may be provided which are approved by the
30 Board of Governors, and which are consistent with the primary

1 mission of the system. Each institution shall provide
2 appropriate educational facilities, student living facilities
3 and such other facilities as deemed necessary by the board.

4 (b) The system is hereby granted and shall have and may
5 exercise all the powers necessary or convenient for the carrying
6 out of the aforesaid purposes, including, but without limiting
7 the generality of the foregoing, the following rights and
8 powers:

9 * * *

10 (3) To acquire, purchase, hold, lease as lessee and use any
11 property, real, personal or mixed, tangible or intangible, or
12 any interest therein, lease as lessor any property, real,
13 personal or mixed, tangible or intangible, necessary or
14 desirable for carrying out the purposes of the system, and to
15 sell, transfer and dispose of any property acquired by gift,
16 grant, devise or bequest, whether the property is real, personal
17 or mixed, tangible or intangible, or any interest therein; to
18 take, demand, receive and possess all moneys, real property and
19 goods which shall be appropriated, given or granted to for the
20 use of the system and to apply the same according to the will of
21 the donors; to sell, transfer and dispose of real property
22 acquired by and titled to the system [upon approval by the
23 General Assembly] as provided in [section 2018-A] subsection
24 (b.1); and by gift, purchase or devise to receive, possess,
25 enjoy and retain forever any and all real and personal estate
26 and funds, of whatsoever kind, nature or quality the same may
27 be, in special trust and confidence that the same, and the
28 profits thereof, shall be applied to and for the use and purpose
29 of endowing the system, and shall have power to receive
30 donations from any source whatever, to be exclusively devoted to

1 the purposes of the system or according to the terms of
2 donation: Provided, however, That the system shall have no power
3 at any time or in any manner, to indemnify third parties, to
4 pledge the credit or taxing power of the Commonwealth, nor shall
5 any of its obligations or debts be deemed to be obligations of
6 the Commonwealth, nor shall the Commonwealth be liable for the
7 payment of principal or interest on such obligations. [Nothing
8 herein shall empower the Board of Governors or the chancellor to
9 take or receive any moneys, goods or other property, real or
10 personal, which is given or granted to specific institutions.]

11 (4) To sell, transfer or dispose of real property titled to
12 the system to an individual, organization, firm or corporation,
13 political subdivision of the Commonwealth or the Government of
14 the United States or a branch or agency thereof.

15 * * *

16 Section 4. Section 2003-A.1(b), (c.2), (d), (e) and (f) of
17 the act are amended to read:

18 Section 2003-A.1. Project Contracts.--* * *

19 [(b) The system shall review the work, experience and
20 qualifications of architects and engineers seeking contracts
21 from the system under this section and, on the basis of merit,
22 select and appoint architects and engineers for the design,
23 contract administration and, at the system's discretion,
24 inspection of a project authorized by this section. The board
25 shall give public notice in the manner provided by law of
26 projects which require the services of architects and engineers.
27 The board shall include, but not be limited to, consideration of
28 the following factors in the selection of architects and
29 engineers:

30 (1) equitable distribution of contracts among qualified

- 1 architects and engineers;
- 2 (2) capability to perform the design and construction
- 3 services for the contract being considered;
- 4 (3) geographic proximity of the architect or engineer to the
- 5 proposed facility;
- 6 (4) ability of the architect or engineer to furnish the
- 7 necessary available manpower to perform the services required by
- 8 the project; and
- 9 (5) any other related circumstances peculiar to the proposed
- 10 contract.]

11 (c.2) All contracts, other than contracts for the retention

12 of architects and engineers or contracts procured with non-

13 State-appropriated funds, authorized by this section which

14 exceed a base amount of eighteen thousand five hundred dollars

15 (\$18,500), subject to adjustment under subsection (c.3), shall

16 be advertised in the manner provided by law and competitively

17 bid and awarded to the lowest responsible bidder. In case of

18 emergencies and notwithstanding any other provision of this

19 section to the contrary, the chancellor may make or authorize

20 others to make an emergency procurement whenever a threat exists

21 to public health, welfare or safety or circumstances outside the

22 control of the State system and creates an urgency of need which

23 does not permit the delay involved in using more formal

24 competitive methods. Whenever practical, in the case of a

25 procurement of a supply, at least two (2) bids shall be

26 solicited. A written determination of the basis for the

27 emergency and for the selection of the particular contractor

28 shall be included in the contract file.

29 * * *

30 [(d) The power and authority granted by this section shall

1 not be exercised by the system, the board or an institution for
2 a project to modify, repair or renovate any facility erected by
3 the Department of General Services unless prior written notice
4 setting forth the nature, scope, extent and description of such
5 project has been given to the Department of General Services.]

6 (e) Nothing in this section shall be construed as amending,
7 repealing or otherwise modifying the provisions of the act of
8 [May 1, 1913 (P.L.155, No.104), entitled "An act regulating the
9 letting of certain contracts for the erection, construction, and
10 alteration of public buildings," or the act of] August 15, 1961
11 (P.L.987, No.442), known as the "Pennsylvania Prevailing Wage
12 Act." The act of May 1, 1913 (P.L.155, No.104), referred to as
13 the "Separations Act," shall not apply to any person, entity,
14 contract or activity provided for by this article.

15 (f) The system is authorized to transfer and convey any
16 easements or licenses [necessitated by any construction project
17 which has been previously authorized by the board] as necessary.

18 Section 5. Section 2010-A of the act is amended by adding a
19 paragraph to read:

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

29 * * *

30 (10.2) The provisions of subsection (10.1) shall only apply

1 to contracts purchased with State-appropriated funds.

2 * * *

3 Section 6. Section 2018-A of the act is amended to read:

4 [Section 2018-A. Method of Disposition; Consideration by the
5 General Assembly.--(a) Whenever the system deems that it is
6 necessary or desirable to sell, transfer or dispose of real
7 property acquired by and titled to it, it shall request
8 authorization from the General Assembly to sell, transfer or
9 dispose of said real property; and from time to time, as
10 necessary, the system shall submit to the Chief Clerk of the
11 House of Representatives and the Secretary of the Senate
12 requests to sell, transfer or dispose of real property acquired
13 by and titled to the system for consideration by the General
14 Assembly.]

15 (b) Each request for authorization to sell, transfer or
16 dispose of real property transmitted to the General Assembly
17 shall be proposed as a resolution, and shall be placed on the
18 calendar of each house for the next legislative day following
19 its receipt, and shall be considered by each house within thirty
20 (30) calendar days of continuous session of the General
21 Assembly.

22 (c) Each request for authorization to sell, transfer or
23 dispose of real property shall take effect if it is approved by
24 a majority vote of the duly elected membership of each house
25 during such thirty-day period or may be disapproved by either
26 house during that period by a majority vote of the duly elected
27 membership of each house.

28 (d) No resolution shall be effective:

29 (1) unless it designates the number of the request for
30 authorization to sell, transfer or dispose of real property and

1 the date on which it was transmitted to the General Assembly; or
2 (2) if it specifies more than one request for authorization
3 to sell, transfer or dispose of real property except as
4 otherwise provided by subsection (g) of this section.

5 (e) The effective date of each request for authorization to
6 sell, dispose or transfer real property shall be the date of
7 approval of the last of the two houses to act. Upon the
8 expiration of the thirty-day period after the delivery of the
9 request for authorization to sell, dispose or transfer real
10 property to the two Houses of the General Assembly and the
11 failure to act as provided in subsection (c) of this section,
12 each request for authorization to sell, dispose or transfer real
13 property shall become effective.

14 (f) For the purposes of subsection (b) of this section:

15 (1) Continuity of session shall be considered as broken only
16 by an adjournment of the General Assembly sine die.

17 (2) In the computation of the thirty-day period, there shall
18 be excluded the days on which either house is not in session
19 because of an adjournment of more than ten (10) days to a day
20 certain.

21 (g) Any provision of the request for authorization to sell,
22 dispose or transfer real property may, under provisions
23 contained therein, be made operative at a time later than the
24 date on which the request for authorization to sell, transfer or
25 dispose of real property otherwise takes effect.]

26 Section 7. Section 2019-A of the act is amended by adding a
27 subsection to read:

28 Section 2019-A. Campus Police Powers and Duties.--* * *

29 (d) Campus police are authorized to disseminate
30 investigative information as defined in 18 Pa.C.S. § 9102

1 (relating to definitions) to university officials for use in
2 student disciplinary matters subject to 22 Pa. Code Ch. 505
3 (relating to student personnel). Notwithstanding the exception
4 contained in this section, all other provisions of 18 Pa.C.S.
5 Ch. 91 (relating to criminal history record information) shall
6 apply to campus police.

7 Section 8. All acts and parts of acts are repealed and all
8 regulations and parts of regulations are abrogated insofar as
9 they are inconsistent with this act.

10 Section 9. This act shall apply to contracts and purchases
11 advertised on or after January 1 of the year following the
12 effective date of this section.

13 Section 10. This act shall take effect as follows:

14 (1) The addition of section 2002-A(c) of the act shall
15 take effect January 1 of the year following the effective
16 date of this section.

17 (2) The remainder of this act shall take effect in 60
18 days.