

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:

22 * * *

1 (10.1) "Non-State-appropriated funds" shall mean any funds
2 that the system or an institution receives or are generated from
3 other sources, such as gifts, tuition, student fees, including
4 student activity fees, grants and assistance from Federal and
5 State agencies, a local political subdivision, foundations,
6 corporations or any other source.

7 * * *

8 (13.1) "State-appropriated funds" shall mean any funds
9 appropriated to the system by the General Assembly.

10 * * *

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

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

25 (1) Bloomsburg [State College] University of Pennsylvania;

26 (2) California [State College] University of Pennsylvania;

27 (3) Cheyney [State College] University of Pennsylvania;

28 (4) Clarion [State College] University of Pennsylvania;

29 (5) East Stroudsburg [State College] University of
30 Pennsylvania;

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

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

29 (c) The procurement of goods, services, supplies and
30 construction procured for or by the system or institutions with

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

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

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

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

1 appropriate educational facilities, student living facilities
2 and such other facilities as deemed necessary by the board.

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

8 * * *

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

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

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

14 * * *

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

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

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

29 (1) equitable distribution of contracts among qualified
30 architects and engineers;

1 (2) capability to perform the design and construction
2 services for the contract being considered;

3 (3) geographic proximity of the architect or engineer to the
4 proposed facility;

5 (4) ability of the architect or engineer to furnish the
6 necessary available manpower to perform the services required by
7 the project; and

8 (5) any other related circumstances peculiar to the proposed
9 contract.]

10 (c.2) All contracts, other than contracts for the retention
11 of architects and engineers or contracts procured with non-
12 State-appropriated funds, authorized by this section which
13 exceed a base amount of eighteen thousand five hundred dollars
14 (\$18,500), subject to adjustment under subsection (c.3), shall
15 be advertised in the manner provided by law and competitively
16 bid and awarded to the lowest responsible bidder. In case of
17 emergencies and notwithstanding any other provision of this
18 section to the contrary, the chancellor may make or authorize
19 others to make an emergency procurement whenever a threat exists
20 to public health, welfare or safety or circumstances outside the
21 control of the State system and creates an urgency of need which
22 does not permit the delay involved in using more formal
23 competitive methods. Whenever practical, in the case of a
24 procurement of a supply, at least two (2) bids shall be
25 solicited. A written determination of the basis for the
26 emergency and for the selection of the particular contractor
27 shall be included in the contract file.

28 * * *

29 [(d) The power and authority granted by this section shall
30 not be exercised by the system, the board or an institution for

1 a project to modify, repair or renovate any facility erected by
2 the Department of General Services unless prior written notice
3 setting forth the nature, scope, extent and description of such
4 project has been given to the Department of General Services.]

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

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

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

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

28 * * *

29 (10.2) The provisions of subsection (10.1) shall only apply
30 to contracts purchased with State-appropriated funds.

1 * * *

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

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

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

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

27 (d) No resolution shall be effective:

28 (1) unless it designates the number of the request for
29 authorization to sell, transfer or dispose of real property and
30 the date on which it was transmitted to the General Assembly; or

1 (2) if it specifies more than one request for authorization
2 to sell, transfer or dispose of real property except as
3 otherwise provided by subsection (g) of this section.

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

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

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

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

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

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

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

28 (d) Campus police are authorized to disseminate
29 investigative information as defined in 18 Pa.C.S. § 9102
30 (relating to definitions) to university officials for use in

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

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

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

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

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

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