

No. 1990-103

AN ACT

HB 1083

Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto," further providing for the purposes and powers of the State System of Higher Education, for maintenance projects and project contracts; providing for disposition of property; further providing for nondiscrimination; and making editorial changes.

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

Section 1. Section 2001-A(19) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, added June 23, 1988 (P.L.457, No.77), is amended to read:

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

* * *

(19) "Maintenance projects" shall mean those activities, materials, labor and contracts necessary to replace, restore, refurbish or enhance real property which do not alter the architectural or engineering characteristics of the structure, as follows: painting; window repair and replacement; roof repair and replacement; repointing and masonry repair; downspout and gutters; landscaping; roadways, parking facilities, track and athletic court resurfacing and reconstruction; sidewalk and curbing reconstruction and replacement; asbestos abatement (in accordance with all State and Federal statutes and regulations); caulking and insulation; and replacement, reconstruction and construction of non-load bearing interior walls. **[The Department of General Services may define additional maintenance projects on a case-by-case basis.]** No such project shall affect the structural integrity of any existing facility or utility system.

Section 2. Section 2003-A of the act, added November 12, 1982 (P.L.660, No.188), is amended to read:

Section 2003-A. Purposes and General Powers.—(a) The State System of Higher Education shall be part of the Commonwealth's system of higher education. Its purpose shall be to provide high quality education at the lowest possible cost to the students. The primary mission of the system is the provision of instruction for undergraduate and graduate students to and beyond the master's degree in the liberal arts and sciences and in applied fields, including the teaching profession. Graduate instruction at the doctoral level, except for doctoral programs provided for in the act of December 16, 1965 (P.L.1113, No.430), known as the "Indiana University of Pennsyl-

vania Act," only may be offered jointly with Indiana University or an institution chartered to offer work at the doctoral level. Programs of research and service may be provided which are approved by the Board of Governors, and which are consistent with the primary mission of the system. Each institution shall provide appropriate educational facilities, student living facilities and such other facilities as deemed necessary by the board.

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

(1) To have perpetual existence as a corporation.

(2) To adopt, use and alter at will a corporate seal.

(3) To acquire, purchase, hold, lease as lessee and use any property, real, personal or mixed, tangible or intangible, or any interest therein, *lease as lessor any property, real, personal or mixed, tangible or intangible*, necessary or desirable for carrying out the purposes of the system, and to sell, [*lease as lessor,*] transfer and dispose of any property [~~other than real property or any interest therein at any time acquired by it and~~] *acquired by gift, grant, devise or bequest, whether the property is real, personal or mixed, tangible or intangible, or any interest therein;* to take, demand, receive and possess all moneys, *real property* and goods which shall be appropriated, given or granted to for the use of the system and to apply the same according to the will of the donors; [~~and~~] *to sell, transfer and dispose of real property acquired by and titled to the system upon approval by the General Assembly as provided in section 2018-A; and* by gift, purchase or devise to receive, possess, enjoy and retain forever any and all real and personal estate and funds, of whatsoever kind, nature or quality the same may be, in special trust and confidence that the same, and the profits thereof, shall be applied to and for the use and purpose of endowing the system, and shall have power to receive donations from any source whatever, to be exclusively devoted to the purposes of the system or according to the terms of donation: Provided, however, That the system shall have no power at any time or in any manner, to pledge the credit or taxing power of the Commonwealth, nor shall any of its obligations or debts be deemed to be obligations of the Commonwealth, nor shall the Commonwealth be liable for the payment of principal or interest on such obligations. Nothing herein shall empower the Board of Governors or the chancellor to take or receive any moneys, goods or other property, real or personal, which is given or granted to specific institutions.

(c) Collective bargaining agreements in force at the time of enactment of this act shall remain in force for the term of the contract. New collective bargaining agreements with professional employes shall be negotiated on behalf of the system by the chancellor. The board shall make a coalition bargaining arrangement with the Commonwealth for the negotiation of new collective bargaining agreements with noninstructional employes.

Section 3. Section 2003-A.1 of the act, added June 23, 1988 (P.L.457, No.77), is amended to read:

Section 2003-A.1. [**Contracts for Maintenance Projects**] *Project Contracts.*—(a) The State System of Higher Education is hereby authorized to execute *and administer* contracts [without regard to the source of funds necessary for the performance of maintenance projects to the extent that the aggregate project cost for single or multiple contracted work does not exceed one hundred thousand dollars (\$100,000). This limit shall be adjusted annually in accordance with the Composite Construction Cost Index established by the Federal Department of Commerce. Prior to bidding, a contract which exceeds the amount annually authorized by this section shall be presented to the Department of General Services for ninety (90) days for review and approval or disapproval. All contracts, regardless of their amount, shall be recorded with the Department of General Services prior to bidding.] *for construction, repair, renovation and maintenance projects within the meaning of section 2401.1 of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," including all aspects of project management, design and construction and legal and administrative services related to and necessary for the completion of such projects, except capital projects which are funded by Commonwealth general obligation bonds, capital appropriations or pursuant to Article XVI-B of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," unless delegated by the Department of General Services to the system.*

[(b) Upon the request of the Department of General Services, the State System of Higher Education shall provide updated plans, drawings and specifications for any contracted work.

(c) For any projects or contracts involving architectural or engineering considerations or which may affect structural integrity, contract specifications must be reviewed and approved by the Department of General Services.

(d) Upon the request of the State System of Higher Education, the Department of General Services shall execute and administer, without charge, contracts for maintenance projects.]

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

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

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

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

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

(5) *any other related circumstances peculiar to the proposed contract.*

(c) *All contracts, other than contracts for the retention of architects and engineers, authorized by this section which exceed five thousand dollars (\$5,000) shall be advertised in the manner provided by law and competitively bid and awarded to the lowest responsible bidder.*

(d) *The power and authority granted by this section shall not be exercised by the system, the board or an institution for a project to modify, repair or renovate any facility erected by the Department of General Services unless prior written notice setting forth the nature, scope, extent and description of such project has been given to the Department of General Services.*

(e) Nothing in this section shall be construed as amending, repealing or otherwise modifying the provisions of the act of May 1, 1913 (P.L.155, No.104), entitled "An act regulating the letting of certain contracts for the erection, construction, and alteration of public buildings," or the act of August 15, 1961 (P.L.987, No.442), known as the "Pennsylvania Prevailing Wage Act."

(f) *The system is authorized to transfer and convey any easements or licenses necessitated by any construction project which has been previously authorized by the board.*

Section 4. Section 2006-A(a)(8) and (9) of the act, amended or added November 12, 1982 (P.L.660, No.188) and July 10, 1986 (P.L.1270, No.117), are amended to read:

Section 2006-A. Powers and Duties of the Board of Governors.—

(a) The Board of Governors shall have overall responsibility for planning and coordinating the development and operation of the system. The powers and duties of the Board of Governors shall be:

* * *

(8) To establish general personnel policies under which the institutions shall operate consistent with merit principles; to determine equivalent degree and teaching experience qualifications for appointment or promotion of faculty employes within the classifications enumerated in the act of January 18, 1952 (1951 P.L.2111, No.600), referred to as the State College Faculty Compensation Law, to include, but not be limited to, the Degrees of Juris Doctor and Master of Fine Arts; and to enter into collective bargaining agreements pursuant to the act of July 23, 1970 (P.L.563, No.195), known as the "Public Employe Relations Act," in accordance with section [2008-A] 2003-A of this act.

(9) To recommend approval or disapproval of all system building projects to the Secretary of [Budget and Administration.] *the Budget which are not within the contracting authority of the system under section 2003-A.1.*

* * *

Section 5. Section 2014-A of the act, added November 12, 1982 (P.L.660, No.188), is amended to read:

Section 2014-A. Nondiscrimination [Policy].—No person shall be denied *matriculation at any system institution* or a position as a governor, trustee, faculty member, or employe of the system, or [student with the system or its constituent institutions] *the opportunity to contract with the*

system or its constituent institutions because of [his] race, color, religion, [creed, ancestry,] age, sex, national origin, handicap or political [party] affiliation. The board shall develop and promulgate by regulation a plan assuring equal opportunity in educational access, employment and contracting. The plan shall provide for nondiscrimination and compliance with respect to contracting practices for the system, its constituent institutions and their contractors, subcontractors, assignees, lessees, agents, vendors and suppliers.

Section 6. The act is amended by adding a section to read:

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

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

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

(d) No resolution shall be effective:

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

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

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

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

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

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

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

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

APPROVED—The 11th day of July, A. D. 1990.

ROBERT P. CASEY