

No. 2002-187

AN ACT

HB 2644

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 board of control for distressed school districts; authorizing boards of school directors to establish a program to provide high school diplomas to certain veterans; recognizing American Sign Language courses as satisfying foreign language requirements imposed for high school graduation; further providing for Pennsylvania Athletic Oversight Council, for the transportation of students attending charter schools and for the board of control for certain empowerment school districts; amending and adding provisions relating to the Thaddeus Stevens College of Technology; further providing for placement of certain adjudicated students and for school performance incentives; making a repeal; and making editorial changes.

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

Section 1. Section 692 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, amended January 14, 1970 (1969 P.L.468, No.192), is amended to read:

Section 692. Special Board of Control; Petition; Appointments.—Whenever on the basis of a proper investigation as herein provided for, the [Superintendent of Public Instruction] *Secretary of Education* has declared [any] a school district *of the first class A, second class, third class or fourth class* to be a distressed school district *under section 691(a)*, he or his designated representative who shall be a person trained in public school administration, possessing the certification prerequisites demanded of a district or assistant superintendent, or holding in the Department of [Public Instruction] *Education* the rank of Deputy [Superintendent] *Secretary*, shall petition the court of common pleas of the county in which such district, or the largest part in area, is located to appoint two citizens who shall be qualified electors and taxpayers in the county in which the school district is located. School directors and employes of any such school district shall be ineligible for appointment by the court. The appointees, together with the [Superintendent of Public Instruction or his] designated representative *of the Secretary of Education*, shall constitute a special board of control[.] *and shall serve for terms of five years. No member of the board may be removed from office during a term, except that the Secretary of Education may upon clear and convincing evidence of malfeasance or misfeasance in office remove a member prior to the expiration of the term. Before a member of the board is removed, that member must be provided with a written statement of the reasons for removal and an opportunity for a hearing in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of*

Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action). Vacancies occurring because of death, removal or resignation of [appointed] members of the board shall be filled [by the court.] within thirty (30) days of the creation of the vacancy in the manner in which that position was originally filled. A member of the board shall hold office until a successor is appointed and qualified. The special board of control shall assume control of the affairs of the district and operate it in the place of the school directors during the period necessary to reestablish a sound financial structure in the district. The costs of the court proceedings shall be paid by the Department of [Public Instruction] Education.

Section 2. The act is amended by adding a section to read:

Section 1524. Recognition of American Sign Language Courses.—(a) *A student shall receive credit for completion of a course in American Sign Language at the high school level toward the satisfaction of the foreign language requirements included in a school district's strategic plan or requirements for graduation established pursuant to 22 Pa. Code Ch. 4 (relating to academic standards and assessment).*

(b) *The teaching of American Sign Language as a language alternative in the public schools of this Commonwealth shall be provided by a properly certificated person as required by Article XII.*

(c) *A properly certificated person shall hold a certificate to teach according to section 1201 and provide proof of the successful completion of a Department of Education-approved program in American Sign Language.*

(d) *For purposes of this section, "American Sign Language" means the complete and autonomous human language with its own unique grammar frequently used as a form of communication by the hearing-impaired communities.*

Section 3. Section 1611 of the act is amended by adding a subsection to read:

Section 1611. Academic Degrees.—* * *

(c) *A board of school directors may establish a program to be known as "Operation Recognition" which provides for granting a high school diploma to any honorably discharged veteran who served in the United States military in the Korean War between the twenty-seventh day of June, one thousand nine hundred fifty, and the thirty-first day of January, one thousand nine hundred fifty-five, who attended high school between one thousand nine hundred forty-seven and one thousand nine hundred fifty-five and who would have been a member of a graduation class during the years one thousand nine hundred fifty-one through one thousand nine hundred fifty-seven but did not graduate from high school due to entry into military service. A board of school directors may award a diploma posthumously to an eligible veteran. An application for a*

diploma under this subsection must be made in the manner prescribed by the board of school directors.

Section 4. Sections 1603-A(f) and 1726-A, amended or added November 22, 2000 (P.L.672, No.91), are amended to read:

Section 1603-A. Pennsylvania Athletic Oversight Council.—* * *

(f) The duties and responsibilities of the council shall be as follows:

(1) To meet no less than four times a year at the call of the chair. All such meetings shall be conducted in accordance with the requirements of 65 Pa.C.S. Ch. 7 (relating to open meetings).

(2) To make recommendations concerning changes to the administration of interscholastic athletics to the association. The council shall make recommendations on issues, including, but not limited to:

(i) Appeals.

(ii) Athletic eligibility.

(iii) Transfers of students.

(iv) Expansion of PIAA-sanctioned athletic competitions or sports, including the addition of other athletic associations into PIAA-sponsored championships.

(3) To review and monitor the efforts of the association to meet the criteria listed in section 1604-A(a) and (b).

(4) To hold public hearings, subject to the requirements of 65 Pa.C.S. Ch. 7, on any issue concerning interscholastic athletics. These issues shall include, but not be limited to:

(i) Appeals.

(ii) Athletic eligibility.

(iii) Transfers of students.

(iv) Expansion of PIAA-sanctioned athletic competitions or sports, including the addition of other athletic associations into PIAA-sponsored championships.

(5) To have access to all books, papers, documents and records of the association in order to complete the annual report required under clause (6).

(6) To issue an annual report to the chairman and minority chairman of the Education Committee of the Senate, the chairman and minority chairman of the Education Committee of the House of Representatives and the president of the association summarizing:

(i) The council's meetings, public hearings and other action taken by the council.

(ii) The recommendations of the council made during the year and the association's response to each recommendation.

(iii) The efforts of the association to meet the criteria listed in section 1604-A(a) and (b).

(7) To issue a final report [~~two (2)~~] *three (3)* years after the Governor has made the final appointments to the council to the chairman and minority chairman of the Education Committee of the Senate and the chairman and minority chairman of the Education Committee of the House

of Representatives and the president of the association summarizing all of the council's actions and recommendations over the previous **[two (2)] three (3) years [and]**, the association's response to each **and the final determination of the council under subsection (g)**.

(8) To elect a chairman and a vice chairman.

(9) To, at the council's discretion, request the committee to perform an audit on any phase of the association's compliance with the criteria listed in section 1604-A(a) or (b), as necessary for the purposes of completing its annual or final report.

* * *

Section 1726-A. Transportation.—(a) Students who **[reside in the school district in which the charter school is located or who are residents of a school district which is part of a regional charter school shall be provided transportation to the charter school on the same terms and conditions as transportation is provided to students attending the schools of the district.] attend a charter school located in their school district of residence, a regional charter school of which the school district is a part or a charter school located outside district boundaries at a distance not exceeding ten (10) miles by the nearest public highway shall be provided free transportation to the charter school by their school district of residence.** School districts of the first class shall also provide transportation to the students if they are the same age or are enrolled in the same grade, grades or their grade equivalents as any students of the district for whom transportation is provided under any program or policy to the schools of the district. **[Such] Notwithstanding any provision of law to the contrary,** transportation shall be provided to charter school students **[each school day] by their school district of residence on such dates and periods that the charter school is in regular session** whether or not transportation is provided **[during the same school day] on such dates and periods** to students attending schools of the district. **[Nonresident students shall be provided transportation under section 1361.]** Districts providing transportation to a charter school outside the district shall be eligible for payments under section 2509.3 for each public school student transported.

(b) In the event that the Secretary of Education determines that a school district **[of the first class]** is not providing the required transportation to students to the charter school, the Department of Education shall pay directly to the charter school funds for costs incurred in the transportation of its students. Payments to a charter school shall be determined in the following manner: for each eligible student transported, the charter school shall receive a payment equal to the total expenditures for transportation of the school district divided by the total number of school students transported by the school district under any program or policy.

(c) The department shall deduct the amount paid to the charter school under subsection (b) from any and all payments made to the district.

(d) A school district of the first class shall submit a copy of its current transportation policy to the department no later than August 1 of each year.

Section 5. Section 1705-B(h) of the act, amended June 22, 2001 (P.L.530, No.35) and June 29, 2002 (P.L.524, No.88), is amended to read:

Section 1705-B. Education Empowerment Districts.—* * *

(h) (1) **[A board of control established under section 692 shall be abolished upon certification of the school district as an education empowerment district. The school district shall be operated by a board of control established under subsection (a). The secretary may appoint the same individuals serving on the board of control under section 692 to the board of control under subsection (b).] *A school district under a declaration of distress pursuant to section 691(a) and certified as an education empowerment district shall be operated by a special board of control established under section 692. A board of control established under this section shall be abolished upon the appointment of a special board of control under section 692.***

(2) **[Sections 691 and 692 shall not apply to a school district certified as an education empowerment district.] *For a school district under a declaration of distress pursuant to section 691(a) and certified as an education empowerment district, the special board of control established under section 692 shall have the powers and duties of a special board of control under section 692 and the powers and duties contained in section 1706-B.***

(3) For a school district with a history of low test performance that is certified as distressed for a minimum period of two (2) years under sections 691 and 692, the department shall waive the inclusion of the school district on the education empowerment list under section 1703-B(a) and immediately certify the school district as an education empowerment district.

(4) The department may utilize up to \$2,000,000 of undistributed funds not expended, encumbered or committed from appropriations for grants and subsidies made to the department to assist school districts certified as an education empowerment district under paragraph (3). There is hereby established a restricted account from which payments under this paragraph shall be paid. Funds shall be transferred by the Secretary of the Budget to the restricted account to the extent necessary to make payments under this paragraph. Funds in the restricted account are hereby appropriated to carry out the purposes of this paragraph. ***The subsidy payment from this account shall be utilized to supplement the operational budget of the eligible school districts.*** This paragraph shall apply to fiscal years 2000-2001, 2001-2002 and 2002-2003 and shall expire June 30, 2003.

Section 6. Article XIX-B heading and sections 1901-B, 1902-B and 1903-B of the act, added December 19, 1990 (P.L.1362, No.211), are amended to read:

ARTICLE XIX-B.
THADDEUS STEVENS [STATE SCHOOL] COLLEGE OF
TECHNOLOGY.

Section 1901-B. Short Title.—This article shall be known and may be cited as the “Thaddeus Stevens [State School] *College* of Technology Act.”

Section 1902-B. Legislative Intent.—It is the intent of the General Assembly to provide for the continued existence, operation and administration of the Thaddeus Stevens [State School] *College* of Technology.

Section 1903-B. Authorization to Continue [School] Operations.—The institution known as the Thaddeus Stevens [State School] *College* of Technology, established and operated pursuant to the repealed provisions of the act of May 11, 1905 (P.L.518, No.429), is hereby authorized to continue operations and to receive any State funds or aid to which it may be entitled. All lawful actions and expenditures made by said institution between October 4, 1978, and the effective date of this act are hereby ratified and approved by the General Assembly. *All powers, rights, privileges, duties and obligations, statutory, contractual or otherwise, of Thaddeus Stevens College of Technology or its predecessors and its board of trustees and officers, heretofore existing and not otherwise changed or repealed by this act, shall continue in full force and effect.*

Section 7. The act is amended by adding a section to read:

Section 1903.1-B. Appropriations.—Appropriations for the operation of the Thaddeus Stevens College of Technology shall have preferred status and be considered ordinary expenses of State government.

Section 8. Sections 1904-B and 1906-B of the act, added December 19, 1990 (P.L.1362, No.211), are amended to read:

Section 1904-B. School Purposes.—(a) The Thaddeus Stevens [State School] *College* of Technology, located in Lancaster, Pennsylvania, shall continue to provide for the postsecondary education and training of indigent orphans.

(b) If a sufficient number of indigent orphans qualified for admission pursuant to school standards fail to apply, then the board of trustees of [this corporation] *the college* may admit first other deserving persons and, thereafter, orphans who may not be indigent, as the trustees in their best judgment may think proper.

(c) Those shall be deemed orphans who have lost either parent.

Section 1906-B. Board of Trustees.—The board of trustees shall consist of nine members, who shall serve without compensation and be appointed by the Governor by and with the advice and consent of the Senate. Said trustees shall be a body politic [or corporate of] *and corporate constituting a public corporation with* the name of the Thaddeus Stevens [State School] *College* of Technology. [They shall, under section 1311 of the act of April 9, 1929 (P.L.177, No.175), known as “The Administrative Code of

1929," have general direction and control of the property and management of the institution, develop broad institutional policy and make all necessary bylaws and regulations, not inconsistent with either the provisions of the Constitution, laws of the Commonwealth or rules and regulations of the State Board of Education.] Of the trustees first appointed, three shall serve for one year, three for two years and three for three years, and, at the expiration of the respective periods, the vacancies shall be filled by the Governor, by appointment, for [three] six years, as hereinbefore provided; and, should any vacancy occur by death or resignation or otherwise of any trustee, such vacancy shall be filled, by appointment as aforesaid, for the unexpired term of said trustee. The Secretary of Education shall be ex officio member of the board of trustees.

Section 9. The act is amended by adding a section to read:

Section 1906.1-B. Powers and Duties of the Board of Trustees.—(a) *The board of trustees shall direct and control the property, personnel and management of the college, develop broad policy and make all necessary bylaws and regulations not inconsistent with either the provisions of the Constitution, laws of the Commonwealth or rules and regulations of the State Board of Education.*

(b) *The board of trustees shall elect a president, set the salary and delineate the duties and responsibilities of the president.*

(c) *The board of trustees shall coordinate, review and approve the annual capital budget requirements of the college and the annual operating budget of the college. It shall present these annual budgets with comments to the Secretary of Education for presentation to the State Board of Education. The State Board of Education shall return such budget requests, recommending approval or disapproval, with comments, if any, to the Secretary of Education prior to their submission to the Secretary of the Budget. The board of trustees may also submit its budget recommendations and findings to the General Assembly subsequent to the submission of the Governor's budget to the General Assembly.*

(d) *The board of trustees shall have the authority to determine the complement and to manage all personnel matters for the college. The board of trustees shall be exempt from all provisions of the act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," and the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," requiring the approval or decision of any executive agency with respect to complement control and personnel administration for the college.*

(e) *Subsequent to the enactment of the General Appropriation Act for each applicable fiscal year by the General Assembly, the board of trustees shall have the authority to rebudget and reallocate the budgeted funds appropriated to the college at its discretion without the necessity of further approval or direction by any executive agency. The board of trustees shall be exempt from all provisions of "The Administrative Code*

of 1929" and "The Fiscal Code" requiring the approval or decision of any executive agency with respect to the rebudget and reallocation of budgeted funds to the college.

(f) The board of trustees shall be responsible for the proper expenditure, investment and disposition of all funds, both appropriated and unappropriated, necessary for the operation of the college.

(g) The board of trustees shall be responsible for the appointment of the comptroller of the college, who shall not be subject to appointment by the Governor.

(h) Subsequent to the enactment of the General Appropriation Act for each applicable fiscal year by the General Assembly but not earlier than July 1 of each fiscal year, the State Treasurer shall make available to the board of trustees the amount of funds appropriated to the college for that fiscal year.

(i) The board of trustees shall cooperate with and accept grants and assistance from Federal and State agencies, local governments or other political subdivisions, foundations, corporations or any other source for any of the lawful purposes of the college. All moneys received from sources authorized by this section are hereby appropriated to the Thaddeus Stevens College of Technology.

(j) The board of trustees shall have no power at any time or in any manner to pledge the credit or taxing power of the Commonwealth of Pennsylvania, nor shall any of its obligations or debts be deemed to be obligations of the Commonwealth of Pennsylvania, nor shall the Commonwealth of Pennsylvania be liable for the payment of principal or interest on such obligations.

(k) The board of trustees shall have the authority to cause an independent audit of the finances of the college.

Section 10. Sections 1907-B, 1909-B, 1910-B, 1911-B, 1912-B and 1913-B of the act, added December 19, 1990 (P.L.1362, No.211), are amended to read:

Section 1907-B. President of School.—The chief administrator and academic officer of the Thaddeus Stevens [State School] College of Technology shall be the president whose duties shall be defined by the board of trustees [and approved by the Secretary of Education].

Section 1909-B. Tuition Students.—In addition to State-supported resident students as defined in section 1904-B, the board of trustees may admit for study at the school part-time or full-time tuition students and shall fix and charge tuition rates [as approved by the Secretary of Education] for such students. All money collected as tuition by the [institution] college shall be [paid into the General Fund and credited to the appropriations made to the institution.] *deposited into an account held by the college and expended at the discretion of a majority of the board of trustees.*

Section 1910-B. Rights of Faculty and Staff.—(a) Except as otherwise provided by law, faculty employed in the Thaddeus Stevens [State School]

*College of Technology shall continue to enjoy the same rights and privileges as provided on June 30, 1990. Nothing contained herein shall supersede or preempt any provisions of a collective bargaining agreement negotiated between the Commonwealth and an exclusive representative of the employes in accordance with the act of July 23, 1970 (P.L.563, No.195), known as the "Public Employe Relations Act." **New collective bargaining agreements with professional and noninstructional faculty and staff shall be negotiated jointly by the Commonwealth and the board of trustees.** In no event shall the faculty be considered to be in the classified service, as defined by the act of August 5, 1941 (P.L.752, No.286), known as the "Civil Service Act."*

(b) All staff hired by the Thaddeus Stevens College of Technology after the effective date of this subsection shall be excluded from classified service, as defined by the "Civil Service Act."

(c) Nothing contained herein shall in any manner change or affect the status of:

(i) the faculty and staff of the Thaddeus Stevens College of Technology as employes of the Commonwealth, including, but not limited to, all benefits received as Commonwealth employes, including retirement benefits provided for under 24 Pa.C.S. Pt. IV (relating to retirement for school employees) or 24 Pa.C.S. § 8301 (relating to mandatory and optional membership) or 71 Pa.C.S. Pt. XXV (relating to retirement for State employees and officers) or 71 Pa.C.S. § 5301 (relating to mandatory and optional membership) or the right of eligible employes to participate or to elect participation in the Teachers Insurance and Annuity Association of America - College Retirement Equities Fund (TIAA-CREF) retirement plan; or

(ii) the exclusive bargaining representatives, which are representing faculty or staff, pursuant to the provisions of the act of July 23, 1970 (P.L.563, No.195), known as the "Public Employe Relations Act."

Section 1911-B. Visitation Privileges.—The Governor, Secretary of Education, judges of the several courts of the Commonwealth and Senators and Representatives of the General Assembly shall be ex officio visitors of said [institution] college, and it shall be subject to inspection by the Department of Education[, and an annual report of the conduct and management of the school shall be made by the President of the Thaddeus Stevens State School of Technology to the General Assembly and the Secretary of Education].

Section 1912-B. Prior References.—Whenever, in any law, reference is made to the Thaddeus Stevens Industrial and Reform School of Pennsylvania [or], the Thaddeus Stevens Trade School *or the Thaddeus Stevens State School of Technology*, it shall be deemed to refer to and include the Thaddeus Stevens [State School] College of Technology.

Section 1913-B. Acquisition and Disposition of Property.—[The trustees of Thaddeus Stevens State School of Technology shall have the

authority to acquire and retain any property, real, personal or mixed, tangible or intangible, necessary or desirable for carrying out the purposes of the school, and to sell, transfer and dispose of any property, real, personal or mixed, tangible or intangible, or any interest therein at any time acquired by it and to take, demand, receive and possess all moneys, real property and goods which shall be appropriated, given or granted to and for the use of the school and to apply the same according to the will of the donors; 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 school, and shall have power to receive donations from any source whatever, to be exclusively devoted to the purposes of the school or according to the terms of donation.] *(a) The Thaddeus Stevens College of Technology is hereby granted and shall have and may exercise all the powers necessary or convenient 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 college, and to sell, transfer and dispose of any property 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 college and to apply the same according to the will of the donors; to sell, transfer and dispose of real property acquired by and titled to the college upon approval by the General Assembly as provided in this section; 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 college, and shall have power to receive donations from any source whatever, to be exclusively devoted to the purposes of the college or according to the terms of donation: Provided, however, That the college 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.*

(b) Whenever the board of trustees deems that it is necessary or desirable to sell, transfer or dispose of real property acquired or constructed in any part with funds from the Commonwealth of Pennsylvania and titled to the college, 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 board of trustees 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 college for consideration by the General Assembly.

(c) 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.

(d) 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.

(e) 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 (h) of this section.

(f) 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 (d) of this section, each request for authorization to sell, dispose or transfer real property shall become effective.

(g) For the purposes of subsection (c) 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.

(h) 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 11. The act is amended by adding sections to read:

Section 1913-B.1. Contracts for Construction, Repair, Renovation or Maintenance.—(a) *The Thaddeus Stevens College of Technology is hereby authorized to execute and administer contracts 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 the act of February 9, 1999 (P.L.1, No.1), known as the "Capital Facilities Debt Enabling Act," unless delegated by the Department of General Services to the college.

(b) The college shall review the work, experience and qualifications of architects and engineers seeking contracts from the college under this section and, on the basis of merit, select and appoint architects and engineers for the design, contract administration and, at the college's discretion, inspection of a project authorized by this section. The board of trustees shall give public notice in the manner provided by law of projects which require the services of architects and engineers. The board of trustees 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 ten thousand dollars (\$10,000) or any larger amount as otherwise provided for in 62 Pa.C.S. (relating to procurement) shall be advertised in the manner provided by law and competitively bid and awarded to the lowest responsible bidder. In case of emergencies and notwithstanding any other provision of this section to the contrary, the board of trustees may make or authorize others to make an emergency procurement whenever a threat exists to public health, welfare or safety or circumstances outside the control of the college and creates an urgency of need which does not permit the delay involved in using more formal competitive methods. Whenever practical, in the case of a procurement of a supply, at least two (2) bids shall be solicited. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

(d) The power and authority granted by this section shall not be exercised by the college or the board of trustees 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 college is authorized to transfer and convey any easements or licenses necessitated by any construction project which has been previously authorized by the board of trustees.

Section 1914-B. Purchasing.—For purposes of 62 Pa.C.S. (relating to procurement), the Thaddeus Stevens College of Technology shall be considered a "State-affiliated entity" as defined by 62 Pa.C.S. § 103 (relating to definitions).

Section 1915-B. Audit and Financial Reports.—The activities of the Thaddeus Stevens College of Technology shall be subject to the audit of the Department of the Auditor General, but the college shall not be required to pay a fee for any such audit. The president of the college shall make an annual report to the Governor, the Appropriations Committee and Education Committee of the Senate and the Appropriations Committee and Education Committee of the House of Representatives and the State Board of Education showing the financial condition of the college at the end of the Commonwealth's fiscal year.

Section 1916-B. Annual Report.—The board of trustees shall be required to submit a report to the Governor, the Appropriations Committee and Education Committee of the Senate and the Appropriations Committee and Education Committee of the House of Representatives and the State Board of Education, no later than September 1, which shall cover the twelve-month period beginning with the summer term of the preceding year and shall include:

(1) The definitions and number of faculty members and staff employed full time, the number of faculty members and staff employed part time, the number of full-time students enrolled and the number of part-time students enrolled.

(2) The total number of credit hours taught and the minimum number of credit hours required for graduation.

(3) The degrees and programs offered by the institution.

(4) The total number of graduates and the total number of graduates by degree or program.

(5) The number of terms scheduled and dates thereof.

Section 1917-B. Definitions.—For the purposes of this article, the following words and phrases shall have the following meanings,

respectively, except in those instances where the context clearly indicates a different meaning:

(1) "Board of trustees" shall mean the Board of Trustees of the Thaddeus Stevens College of Technology.

(2) "College" shall mean the Thaddeus Stevens College of Technology.

(3) "Secretary" shall mean the Secretary of Education of the Commonwealth of Pennsylvania or such person as the secretary may designate to act on behalf of the secretary with regard to any of the duties and prerogatives imposed by this act.

(4) "State board" shall mean the State Board of Education.

Section 12. Section 2134 of the act, added June 29, 2002 (P.L.524, No.88), is amended to read:

Section 2134. Placement of Certain Adjudicated Students.—*(a)* No student returning from placement [or who is on probation] as a result of being adjudicated delinquent under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) or who has been adjudged to have committed a crime under an adult criminal proceeding shall be returned directly to the regular classroom.

(b) Prior to returning such student to the regular classroom, the school district shall:

(1) Place the student in a transition center operated by the school district for a period not to exceed four (4) weeks.

(2) Develop a transition plan for the student that includes academic goals, identifies school and community services appropriate to the needs of the student and establishes terms and conditions the student must meet prior to returning to the regular classroom.

[(3) Place the student in an alternative education program as defined in Article XIX-C, in a private alternative education institution as defined in Article XIX-E, in a general education development program or in a program operating after the traditional school day as provided for in the transition plan developed pursuant to clause (2).]

(c) The transition plan developed under subsection (b)(2) may provide for the student's direct return to a regular classroom where the underlying offense did not involve any of the following:

(i) Possession of a weapon.

(ii) Possession, use or sale of controlled substances as defined in the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act."

(iii) Possession, use or sale of alcohol or tobacco by any person on school property.

(iv) An act of violence as defined in section 1310-A(h).

(d) In the case of a student whose transition plan does not include immediate return to the regular classroom, the student shall be placed in one of the following as provided for in the student's transition plan:

(1) An alternative education program as defined in Article XIX-C.

(2) A private alternative education institution as defined in Article XIX-E.

(3) A general education development program.

(4) A program operating after the traditional school day.

(e) (1) Prior to the release of a student subject to this section from a residential or day treatment placement as a result of being adjudicated delinquent under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) or returning from incarceration as a result of having been adjudged to have committed a crime under an adult criminal proceeding, the court shall provide to the person designated in charge of the school district's transition center the information required in the school notification provision under 42 Pa.C.S. § 6341(b.1) (relating to adjudication).

(2) The information shall be updated by the court with information pertaining to treatment reports and supervision plans or any other information deemed necessary by the transition plan and assure appropriate placement of the student.

Section 13. Section 2595(f.2) of the act, added June 29, 2002 (P.L.524, No.88), is amended to read:

Section 2595. School Performance Incentives.—* * *

(f.2) Pursuant to guidelines issued by the Department of Education, up to ten percent (10%) of the allocation for school performance funding under this section may be used by the department to establish an incentive program to reward school entities that show improved academic performance as evidenced by [a decline in the percentage of students who score below the basic level of proficiency as defined by 22 Pa. Code Ch. 4 (relating to academic standards and assessment)] *an increase in the percentage of students who score at or above the level of proficiency set by the State Board of Education to meet the requirements of section 2603-B(d)(10)(i) and who are in disaggregated groups, including the following:*

- (1) Economically disadvantaged students.*
- (2) Students from major racial and ethnic groups.*
- (3) Students with disabilities.*
- (4) Students with limited English proficiency.*

* * *

Section 14. Although the current provisions of Article XVII-A of the act require school districts to provide for the transportation of students enrolled in charter schools, the purpose of the amendment of section 1726-A of the act is to clarify the current provisions of Article XVII-A of the act regarding the transportation of such students.

Section 15. The provisions of sections 202 and 1311 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, are repealed as to the Thaddeus Stevens State College of Technology.

Section 16. This act shall take effect as follows:

- (1) The amendment or addition of section 1524 and Article XIX-B of the act shall take effect July 1, 2003.
- (2) Section 15 of this act shall take effect July 1, 2003.
- (3) The remainder of this act shall take effect immediately.

APPROVED—The 9th day of December, A.D. 2002.

MARK S. SCHWEIKER