September 15, 2020

Legislative UPDATE
Pennsylvania's State System of Higher Education

The House returns to session today while the Senate stands in recess until next Monday.

In response to "U.S. District Court Judge William Stickman IV's ruling, issued Monday, that the governor's stay-at-home order and business closure order issued in March and later suspended, along with limitations he placed on social gatherings of 25 people indoors and 250 outdoors as unconstitutional," the chamber may try to further reopen the state, as well as take steps to ensure "the best" educational opportunities and "responsible government management" of the state's two public pension systems. Both chambers already plan a vote to override Gov. Wolf's anticipated veto of HB 2787, legislation to give schools the final decision on fall sports and activities.
The Senate stands in recess until Monday, September 21, 2020 at 1:00 p.m., unless sooner recalled by the President Pro Tempore.

Congratulations to nominee Mr. Thomas J. Grayuski. The Senate confirmed his nomination last week. Grayuski will serve on East Stroudsburg University's Council of Trustees.

Also last week, the Senate advanced two broadband access-related bills to the full Senate for its consideration. And just yesterday, the Joint State Government Commission "issued a 183-page study examining ways to bring broadband access to unserved and underserved areas in largely rural areas of the state," reported Capitolwire. Recommendations include "providing a line-item appropriation in the state budget for the existing Governor's Office of Broadband Initiatives until it could be folded into [an independent state broadband] authority."

A variety of public hearings are scheduled this week related to the COVID-19 pandemic. Another informational meeting on Saturday will discuss the prospects of a limited constitutional convention. "The last constitutional convention held in Pennsylvania was in 1967 in order to reform and modernize Pennsylvania's judicial system," according to the Majority Policy Committee's website.

In committee activity last week, the Senate Appropriations Committee advanced SB 1226, legislation that would allocate $130 million in federal CARES Act funding: $35 million to Pennsylvania’s community colleges, $25 million each to Temple University, the University of Pittsburgh, and Penn State University, $10 million to Lincoln University, and $10 million to Thaddeus Stevens College of Technology.

Previously, the State System received an allocation of $30 million in federal CARES Act funding. This allocation was distributed based on fall 2019 headcount of credit-bearing and clock hour students, as required by statute, with West Chester University receiving as much as $5.5 million and Cheyney University receiving less than $200,000.

The proposed unequal distribution of CARES Act funding among institutions of higher education is a concern, especially as System universities continue to have a financial need as a result of COVID-19. Friends of the State System are encouraged to contact their Senator to inquire about the proposed allocation under SB 1226 and if a more equitable distribution of CARES Act funding among institutions of higher education is possible.
The House stands adjourned until this afternoon at 1:00 p.m.

This week, the chamber "will take up measures to ensure... students have the transportation they are entitled to and teachers can recertify their licenses during the pandemic." Voting Agenda >>

Issues of interest on which the chamber will vote include:

- **SB 1216** (Langerholc): Amends Public School Code, in certification of teachers, for instructional certificate grade spans and age levels and duties of dept. and for special provisions applicable to 2020-2021 school year.

There are a variety of amendments filed to SB 1226, including A06866 (Neilson). If adopted, the Secretary of Education may publish guidelines related to COVID-19 which may be used by a school entity (including institutions of higher education) to evaluate a health and safety plan. A school entity that submits a health and safety plan or its equivalent to the Department of Education that has been approved by the governing body of the school entity and substantially complies with the guidelines published by the department relating to COVID-19 shall not be civilly liable or subject to a civil suit regarding an individual’s exposure to COVID-19 if the school entity complies in good faith with the health and safety plan. The new section would not apply to a criminal act or omission constituting reckless, knowingly or intentional misconduct.

The House Commerce Committee meets today at 9:00 a.m. to hold a public hearing "What comes next... the impacts of COVID crisis." Live stream >>

Later this week, the House Commerce Committee meets to consider legislation regarding anti-indemnity in construction contracts:

- **HB 1887** (Driscoll): Amends an act relating to the indemnification agreements between architects, engineers, and owners, contractors, subcontractors or suppliers, further providing for the act, providing for further indemnification.

Existing statute (68 P.S. § 491) states that architects, engineers, surveyors (or the agents, servants or employees of the same) cannot enforce indemnification clauses in contracts for providing drawings, reports, surveys, etc. or for giving or failing to give directions that causes damage, claim loss or expenses is void. The bill, as filed, would add section 1.1, providing that owners, contractors, subs and suppliers cannot enforce indemnification provisions. The inclusion of “owner” causes concern because it would restrict the State System from being indemnified.

The State System’s ability to purchase insurance, or even require contractors and subs to provide additional insurance to cover risks is limited. The System relies on indemnification provisions as a public entity to manage risks associated with construction projects. We have requested the language be modified and are hopeful a change will be made in committee.

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**Bill Tracking Report**

The following information is updated during legislative session weeks.
In the Senate:

**SB 487** (Laughlin): Amends the Breach of Personal Information Notification Act, prohibiting employees from using nonsecured internet connections; and for policy & entities subject to Health Insurance Portability and Accountability. *Last Action: 09-21-20 S Set on the Senate Calendar*

**SB 835** (Langerholc): An Act providing for funding of high-speed broadband service infrastructure deployment in unserved areas of this Commonwealth and for powers and duties of the Department of Community and Economic Development. *Last Action: 09-08-20 S Final Passage (Y: 50/N: 0)*

**SB 1241** (Argall): Amends the Administrative Code, in powers and duties of the Department of General Services and its departmental administrative and advisory boards and commissions, providing for report of State facilities owned or leased. *Last Action: 09-9-20 S Rereferred to Senate Appropriations*

**HB 2348** (Causer): Amends Title 64 (Public Authorities & Quasi-Public Corporations), in Commonwealth Financing Authority, for Unserved High-Speed Broadband Funding Program; establishing the Unserved High-Speed Broadband Funding Program Account. *Last Action: 09-21-20 S Set on the Senate Calendar*

**HB 2438** (Owlett): Amends Title 68 (Real and Personal Property), providing for broadband services. *Last Action: 09-21-20 S Set on the Senate Calendar*

In the House:

**HCO3996** (Isaacson): Provides an additional 30 days of paid leave for any employee, faculty member, or staff member of a Pennsylvania college or university who is required to quarantine due to COVID-19. *Last Action: 09-09-20 H Filed*

**HCO4000** (Rozzi): Requires all public employees, public and private school teachers, higher education professors and employees, and licensed health care professionals to complete implicit bias training. *Last Action: 09-10-20 H Filed*

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This update is provided as a courtesy of the Office of the Chancellor as a preview of upcoming legislative activity and a review of action on legislative issues of interest to the State System. The Legislative UPDATE is distributed during legislative session weeks.

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