
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 556

Session of
1975

INTRODUCED BY MESSRS. ZORD, ECKENSBERGER, ZELLER AND FISHER,
FEBRUARY 24, 1975

SENATOR SMITH, STATE GOVERNMENT, IN SENATE, AS AMENDED,
JUNE 8, 1976

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled
2 "An act providing for and reorganizing the conduct of the
3 executive and administrative work of the Commonwealth by the
4 Executive Department thereof and the administrative
5 departments, boards, commissions, and officers thereof,
6 including the boards of trustees of State Normal Schools, or
7 Teachers Colleges; abolishing, creating, reorganizing or
8 authorizing the reorganization of certain administrative
9 departments, boards, and commissions; defining the powers and
10 duties of the Governor and other executive and administrative
11 officers, and of the several administrative departments,
12 boards, commissions, and officers; fixing the salaries of the
13 Governor, Lieutenant Governor, and certain other executive
14 and administrative officers; providing for the appointment of
15 certain administrative officers, and of all deputies and
16 other assistants and employes in certain departments, boards,
17 and commissions; and prescribing the manner in which the
18 number and compensation of the deputies and all other
19 assistants and employes of certain departments, boards and
20 commissions shall be determined," further providing for the
21 Pennsylvania State Police.

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

24 Section 1. Subsection (e) of section 205, act of April 9,
25 1929 (P.L.177, No. 175), known as "The Administrative Code of
26 1929," added July 25, 1963 (P.L.278, No.148), is amended to

1 read:

2 Section 205. Pennsylvania State Police.--* * *

3 (e) No [enlisted] member of the Pennsylvania State Police
4 except a probationary cadet or trooper shall be dismissed from
5 service or reduced in rank and/or pay grade except by action of
6 [a court martial board held upon the recommendation of the
7 Commissioner of the Pennsylvania State Police and the Governor.]
8 an Internal Board of Inquiry.

9 * * *

10 Section 2. Subsection (f) of section 205 of the act, added
11 December 5, 1967 (P.L.673, No.313), is amended to read:

12 Section 205. Pennsylvania State Police.--* * *

13 (f) All new cadets and troopers shall serve a probationary
14 period of eighteen months from date of original enlistment,
15 during which time they may be dismissed by the commissioner for
16 violation of rules and regulations, incompetency, and
17 inefficiency without action of [a court-martial board] an
18 Internal Board of Inquiry or the right of appeal to a civil
19 court.

20 Section 3. Subsection (b) of section 711 of the act, amended
21 December 5, 1967 (P.L.671, No.312), is amended to read:

22 Section 711. Commissioner of Pennsylvania State
23 Police.--* * *

24 (b) (1) Before any [enlisted] member who has not reached
25 mandatory retirement age is dismissed or [refused reenlistment]
26 reduced in rank and/or pay grade by [the commissioner] order of
27 an Internal Board of Inquiry, the commissioner shall furnish
28 such [enlisted] member with a detailed written statement of the
29 charges [upon which his dismissal or refusal of reenlistment is
30 based] which form the basis for such action, together with a

1 written notice, signed by the commissioner or the proper
2 authority, of a time and place where such [enlisted] member will
3 be given an opportunity to be heard either in person or by
4 counsel, or both, before [a Court-martial Board appointed by the
5 commissioner] an Internal Board of Inquiry. The board shall
6 consist of three [commissioned officers] persons. Those members
7 of the board who are also members of the Pennsylvania State
8 Police shall be of equal or higher rank than the charged member,
9 except that a next lower ranking member shall be appointed in
10 those instances where an insufficient number of equal or higher
11 ranking members are available for appointment to the board. The
12 charged member shall have the right to name one member of the
13 board who may or may not be a member of the Pennsylvania State
14 Police BUT SHALL BE A CITIZEN OF THE COMMONWEALTH. The <—
15 commissioner shall have the right to name one member of the
16 board who shall be a member of the Pennsylvania State Police.
17 The two named members so selected shall name the third member of
18 the board who shall be chairman but who shall not be WHO MAY BE <—
19 EITHER A CITIZEN OF THE COMMONWEALTH OR a member of the
20 Pennsylvania State Police. If the two named members fail to <—
21 select the third board member within five days after their
22 selection, the third board member shall be chosen from a list of
23 five names presented by the American Arbitration Association.
24 None of the persons listed shall be members of the Pennsylvania
25 State Police. The accuser shall have the right to strike the
26 first name from the list of five names. The accused shall then
27 strike one name. The accuser shall strike another name, and the
28 accused another name so that only one name remains. That person
29 shall be the third board member and chairman of the board. IF <—
30 THE TWO NAMED MEMBERS FAIL TO SELECT THE THIRD MEMBER WITHIN

1 FIVE DAYS AFTER THEIR SELECTION, THE CHIEF JUSTICE OF THE
2 SUPREME COURT SHALL, WITHIN TEN DAYS THEREAFTER, NAME ANY
3 CITIZEN OF THE COMMONWEALTH AS THE THIRD MEMBER OF THE BOARD.

4 The hearing shall not be sooner than ten days nor later than
5 thirty days after such written notice. The hearing shall be held
6 private. IN PUBLIC OR PRIVATE AT THE ELECTION OF THE ACCUSED. At <—
7 such hearing all testimony offered, including that of
8 complainants and their witnesses as well as that of the accused
9 [enlisted] member and his witnesses, shall be recorded by a
10 competent stenographer whose services shall be furnished by the
11 Pennsylvania State Police at its expense. Any such hearing may
12 be postponed, continued or adjourned, by agreement of the person
13 charged and the [Court-martial Board with approval of the
14 commissioner] Internal Board of Inquiry. If such hearing is
15 postponed, continued or adjourned and any testimony has been
16 taken, then a free copy of a transcript of such testimony shall
17 be given to the accused, if he makes a request therefor.

18 (2) The [Court-martial Board] Internal Board of Inquiry
19 shall have power to issue subpoenas requiring the attendance of
20 witnesses at any hearing and shall do so at the request of the
21 party against whom a complaint is made. If any person shall
22 refuse to appear and testify in answer to any subpoena issued by
23 the board, any party interested may petition [the court of
24 common pleas of the county wherein the hearing is to be held]
25 Commonwealth Court, setting forth the facts. [The court]
26 Commonwealth Court shall thereupon issue its subpoena commanding
27 such person to appear before the [Court-martial Board] Internal
28 Board of Inquiry, there to testify as to the matters being
29 inquired into. Any person refusing to testify before the [Court-
30 martial Board] Internal Board of Inquiry may be held for

1 contempt by [the court of common pleas] Commonwealth Court. All
2 testimony at any hearing shall be taken under oath and any
3 member of the [Court-martial Board] Internal Board of Inquiry
4 shall have power to administer oaths to such witnesses.

5 After fully hearing the charges or complaints and hearing all
6 witnesses and/or evidence produced by the [Court-martial Board]
7 Pennsylvania State Police and the person against whom the
8 charges are pending, [and] the Internal Board of Inquiry, after
9 a full, impartial and unbiased consideration thereof [the Court-
10 martial Board] shall, by a [two-thirds] majority vote of all
11 members thereof taken by a closed-secret vote [and] with the
12 total results thereof to be recorded, determine whether or not
13 such charges or complaints have been sustained and whether the
14 evidence substantiates such charges and complaints. [, and in]
15 In accordance with such determination, the Internal Board of
16 Inquiry shall [recommend the discharge, demotion or refusal of
17 reenlistment of such enlisted member to the commissioner] make
18 findings of fact and conclusions of law and adjudge such member
19 guilty or not guilty as charged, all of which shall be recorded.
20 [If one member of the Court-martial Board shall dissent from the
21 findings of the other members, he may state his reason for
22 disagreement which shall be made a part of the record.] Any
23 member of the board may dissent from the majority decision and
24 submit for the record a dissenting opinion.

25 In addition to determining the guilt or innocence of the
26 member, it shall be the duty of the board to prescribe a fair
27 and just punishment, in accordance with this statute. All
28 decisions rendered by the Internal Board of Inquiry shall be
29 final. All reports, findings, and decisions of the board shall
30 be submitted to the commissioner. and shall not be made public

<—

1 ~~unless authorized by the commissioner.~~ FINDINGS AND DECISIONS OF <—
2 THE BOARD ARE TO BE A PUBLIC RECORD.

3 [Reports of findings of the Court-martial Board shall not be
4 made public before acted upon by the commissioner. The Court-
5 martial Board shall submit all records of the trial to the
6 commissioner for review.]

7 A written notice of [any] the board decision and a copy of
8 the [commissioner] commissioner's order discharging, [demoting
9 or refusing the reenlistment of] or reducing in rank and/or pay
10 grade any member, together with a free copy of a transcript of
11 the notes of testimony, shall be sent by registered mail to the
12 [enlisted] member at his last known address within thirty days
13 after the hearing is actually concluded. The commissioner [may,
14 in his discretion,] shall follow [or disregard the
15 recommendations of the Court-martial Board] the decision of the
16 Internal Board of Inquiry OR THE DECISION OF THE COURT IF APPEAL <—
17 IS TAKEN.

18 In all cases where the final decision is in favor of the
19 [enlisted] member, the records in the files of the Pennsylvania
20 State Police shall show accordingly.

21 (3) In case the [enlisted] member concerned considers
22 himself aggrieved by the action of the [commissioner] Internal
23 Board of Inquiry, an appeal DE NOVO may be taken by him to [the <—
24 Court of Common Pleas of Dauphin County] Commonwealth Court, in
25 accordance with the provisions of the act of June 4, 1945 (P.L.
26 1388, No.442) and its amendments, known as the "Administrative
27 Agency Law."

28 (4) For the purpose of this [subsection (b)] section, the
29 term ["enlisted member"] "member" shall [not] include all sworn
30 personnel of the Pennsylvania State Police, except a cadet or

1 trooper [of the Pennsylvania State Police] with less than
2 eighteen months of service.