

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 33

Session of
1983

INTRODUCED BY DeWEESE, LAUGHLIN, BURNS, LLOYD, KUKOVICH, IRVIS,
MANDERINO, DURHAM, ITKIN, WARGO, D. R. WRIGHT, DEAL,
O'DONNELL, WAMBACH, GEORGE, DOMBROWSKI, FEE, MAYERNIK,
DeLUCA, TRUMAN, FREEMAN, RYBAK, EVANS, LINTON, BATTISTO,
McCALL, COHEN, AFFLERBACH, FATTAH, McHALE, STEIGHNER, GRUITZA
AND WOZNIAK, JANUARY 25, 1983

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF
REPRESENTATIVES, AS AMENDED, FEBRUARY 16, 1983

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," establishing different
21 budget procedures for the Office of Consumer Advocate; making
22 a change in the procedure for appointment of employes; and
23 further providing for sunset.

24 The General Assembly of the Commonwealth of Pennsylvania

25 hereby enacts as follows:

26 Section 1. ~~Section 903-A~~ SECTIONS 903-A AND 904-A(A) of the <—

1 act of April 9, 1929 (P.L.177, No.175), known as The
2 Administrative Code of 1929, added July 9, 1976 (P.L.903,
3 No.161), is amended to read:

4 Section 903-A. Assistant Consumer Advocates; Employees.--The
5 Consumer Advocate [with the approval of the Attorney General]
6 shall appoint attorneys as assistant consumer advocates and such
7 additional clerical, technical and professional staff as may be
8 appropriate, and may contract for such additional services as
9 shall be necessary for the performance of his function. The
10 compensation of assistant consumer advocates and such clerical,
11 technical and professional staff shall be set by the Executive
12 Board. No assistant consumer advocate or other staff employe
13 shall, while serving in such position, engage in any business,
14 vocation, other employment, or have other interests,
15 inconsistent with his official responsibilities.

16 SECTION 904-A. POWERS AND DUTIES OF THE CONSUMER ADVOCATE.-- <—
17 (A) IN ADDITION TO ANY OTHER AUTHORITY CONFERRED UPON HIM BY
18 THIS ACT, THE CONSUMER ADVOCATE IS AUTHORIZED, AND IT SHALL BE
19 HIS DUTY, IN CARRYING OUT HIS RESPONSIBILITIES UNDER THIS ACT,
20 TO REPRESENT THE INTEREST OF CONSUMERS AS A PARTY, OR OTHERWISE
21 PARTICIPATE FOR THE PURPOSE OF REPRESENTING AN INTEREST OF
22 CONSUMERS, BEFORE THE COMMISSION IN ANY MATTER PROPERLY BEFORE
23 THE COMMISSION, AND BEFORE ANY COURT OR AGENCY, INITIATING
24 PROCEEDINGS IF IN HIS JUDGMENT SUCH MAY BE NECESSARY, IN
25 CONNECTION WITH ANY MATTER INVOLVING REGULATION BY THE
26 COMMISSION [OR THE CORRESPONDING REGULATORY AGENCY OF THE UNITED
27 STATES] WHETHER ON APPEAL OR OTHERWISE INITIATED. THE CONSUMER
28 ADVOCATE SHALL MONITOR ALL CASES BEFORE CORRESPONDING REGULATORY
29 AGENCIES OF THE UNITED STATES, INCLUDING THE FEDERAL
30 COMMUNICATIONS COMMISSION AND THE FEDERAL ENERGY REGULATORY

1 COMMISSION, WHICH IMPACT UPON THE INTERESTS OF PENNSYLVANIA
2 CONSUMERS AND MAY FORMALLY PARTICIPATE IN THOSE PROCEEDINGS
3 WHICH IN HIS JUDGMENT WARRANT SUCH PARTICIPATION.

4 * * *

5 Section 2. Subsection (a) of section 904-A.1 of the act,
6 amended July 1, 1978 (P.L.581, No.107), is amended to read:

7 Section 904-A.1. Assessment Upon Public Utilities,
8 Disposition, Appropriation and Disbursement of such

9 Assessments.--(a) [Before July 1 of each year, the Office of
10 Consumer Advocate shall estimate its total expenditures in the
11 administration of this act insofar as it relates to public

12 utilities for the fiscal year beginning that date, which

13 estimate for the fiscal year 1977-1978 shall not exceed seven

14 per centum (7%) of the total assessment of the Public Utility

15 Commission for the same fiscal year levied pursuant to section

16 1201 of the act of May 28, 1937 (P.L.1053, No.286), known as the

17 "Public Utility Law." The Pennsylvania Public Utility

18 Commission's total assessment for fiscal 1977-1978 was twelve

19 million, nine hundred fifty-four thousand five hundred forty-

20 nine dollars and ninety eight cents (\$12,954,549.98) and seven

21 per centum (7%) of that figure is equivalent to nine hundred six

22 thousand eight hundred eighteen dollars (\$906,818) for the

23 Office of Consumer Advocate. It is hereby declared that the

24 assessment for the Office of Consumer Advocate approved by the

25 Appropriation Committees of both the House and Senate of

26 Pennsylvania, and by the Governor for the fiscal year 1977-1978

27 in the amount of nine hundred four thousand dollars (\$904,000)

28 is within the statutory limit of seven per centum (7%) of the

29 Pennsylvania Public Utility Commission's total assessment for

30 the fiscal year 1977-1978. For the fiscal year 1978-1979 and for

1 each fiscal year thereafter, the Office of Consumer Advocate's
2 estimate of its total expenditures for that fiscal year shall
3 not exceed five one hundredths of one per centum (.05%) of the
4 total gross intrastate operating revenues of all public
5 utilities subject to the jurisdiction of the Pennsylvania Public
6 Utility Commission for the preceding calendar year. Such
7 estimate shall be submitted to the Governor and to the
8 Appropriation Committees of the House and Senate through their
9 respective chairmen for their respective approvals of such
10 estimate in the amount submitted or such lesser amount as each
11 of them may determine: Provided, That if the Governor or either
12 committee, through its chairman, shall fail to notify the Office
13 of Consumer Advocate in writing of his or its action within
14 thirty (30) days after such submission, the estimate as
15 submitted shall be deemed approved by him or by such committee,
16 as the case may be. The least of the amounts so approved by the
17 three (3) approving authorities shall be the final estimate, and
18 approval of such least amount shall constitute compliance with
19 section 604. The Office of Consumer Advocate shall subtract from
20 the final estimate the estimated balance of the appropriation to
21 be carried over into such fiscal year from the preceding one.
22 The remainder so determined, herein called the total assessment,
23 shall be allocated to, and paid by, such public utilities in the
24 manner hereafter prescribed. The Office of Consumer Advocate or
25 its designated representative shall be afforded an opportunity
26 to appear before the Senate and the House Appropriation
27 Committees regarding its estimate.]

28 (1) Before November 1 of each year, the Consumer Advocate
29 shall estimate the total expenditures for the Office of Consumer
30 Advocate and submit the estimate to the Governor in accordance

1 with section 610. At the same time the Consumer Advocate submits
2 his estimate to the Governor, the Consumer Advocate shall also
3 submit that estimate to the General Assembly for approval by the
4 General Assembly, with or without revision, through a separate <—
5 bill, prior to the beginning of the fiscal year for which such
6 estimate was made. The Consumer Advocate or his designated
7 representatives shall be afforded an opportunity to appear
8 before the Governor and the Senate and House Appropriations
9 Committees regarding his estimate.

10 (2) In formulating his estimate, the Consumer Advocate shall
11 not be bound by any instructions from the Secretary of the
12 Budget, the Governor, the Attorney General, or any other State
13 official or office regarding the fiscal parameters of, or
14 specific amounts to be included in, such estimate.

15 (3) If the General Assembly fails to approve the Consumer
16 Advocate's estimate, pursuant to clause (1), by March 15, the <—
17 Public Utility Commission shall assess, and collect from, public
18 utilities on the basis of the estimate previously approved for
19 the current fiscal year, but the funds from such assessment
20 shall not be expended prior to approval of an estimate by the
21 General Assembly pursuant to clause (1). Upon such approval, the
22 commission shall make an adjustment in the assessment, and
23 collect from public utilities, to reflect the estimate finally
24 approved by the General Assembly.

25 (4) For the fiscal year 1983-1984, the General Assembly
26 shall approve the estimate for the Consumer Advocate pursuant to
27 clause (1) not later than June 30, 1983, notwithstanding any
28 approval of the estimate for that fiscal year by the Governor,
29 the House Appropriations Committee or the Senate Appropriations
30 Committee prior to the effective date of this amendatory act.

For the fiscal year 1983-1984, the Public Utility Commission shall assess, and collect from, public utilities on the basis of the estimate approved for the fiscal year 1982-1983, but the funds from such assessment shall not be expended prior to approval of an estimate by the General Assembly pursuant to clause (1) for the fiscal year 1983-1984. Upon such approval, the commission shall make an adjustment in the assessment, and collect from public utilities, to reflect the estimate finally approved by the General Assembly.

Section 3. The act is amended by adding a section to read:

Section 908-A. Existence of Office of Consumer Advocate.--
The Office of Consumer Advocate shall remain in existence through June 30, 1989, unless the General Assembly, prior to October 30, 1988, determines to extend the existence beyond June 30, 1989.

Section 4. Section 4 of the act of July 9, 1976 (P.L.903, No.161), entitled "An act amending the act of April 9, 1929 (P.L.177, No.175), entitled 'An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the

1 appointment of certain administrative officers, and of all
2 deputies and other assistants and employes in certain
3 departments, boards, and commissions; and prescribing the manner
4 in which the number and compensation of the deputies and all
5 other assistants and employes of certain departments, boards and
6 commissions shall be determined,' providing for the Office of
7 Consumer Advocate in the Department of Justice for a limited
8 period; and imposing powers and duties; and making an
9 appropriation," is repealed.

10 Section 5. This act shall take effect immediately.