

ADMINISTRATIVE CODE OF 1929 - OMNIBUS AMENDMENTS

Act of Jul. 11, 1996, P.L. 619, No. 105

Cl. 71

Session of 1996

No. 1996-105

SB 1251

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 appointment of certain administrative officers, and of all deputies and other assistants and employes in certain departments, boards, and commissions; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employes of certain departments, boards and commissions shall be determined," transferring the Scotland School for Veterans' Children from the Department of Education to the Department of Military and Veterans Affairs; providing for a Pennsylvania Historical and Museum Commission volunteer program; further providing for the Aviation Restricted Account; specifically authorizing collective bargaining between school administrators in school districts of the first class and their public employers; providing for arbitration in order to settle disputes; requiring compliance with collective bargaining agreements and findings of arbitrators; providing for pay to certain inspectors, for contribution to Korea/Vietnam Memorial National Education Center and for an exclusion from sales and use tax; making repeals; and making editorial changes.

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

Section 1. As much as relates to the Department of Education and to the Department of Military Affairs in section 202 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, amended July 9, 1976 (P.L.986, No.199) and September 28, 1976 (P.L.1048, No.211) and repealed in part November 26, 1978 (P.L.1207, No.283) and November 12, 1982 (P.L.660, No.188), are amended to read:

Section 202. Departmental Administrative Boards, Commissions, and Offices.--The following boards, commissions, and offices are hereby placed and made departmental administrative boards, commissions, or offices, as the case may be, in the respective administrative departments mentioned in the preceding section, as follows:

* * *

In the Department of Education,
[Pennsylvania State Board of Censors,]
Board of Trustees of Thaddeus Stevens [Trade School]

State School of Technology,

Board of Trustees of Scranton State School for the Deaf,
[Board of Trustees of Scotland School for Veterans'
Children,]

Public Service Institute Board,

State Board of Private Academic Schools,

State Board of Private [Business] **Licensed** Schools,

[State Board of Private Trade Schools,

State Board of Private Correspondence Schools,]

State Board of Education.

In the Department of Military **and Veterans** Affairs,

Armory Board of the State of Pennsylvania,

Board of Trustees of Scotland School for Veterans'

Children.

* * *

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

Section 304.1. Pennsylvania Historical and Museum Commission Volunteer Program.--(a) The Pennsylvania Historical and Museum Commission is authorized to recruit, train and accept, without regard to the civil service classification laws, rules or regulations, the services of individuals without compensation as volunteers for or in aid of interpretive functions, visitor services, conservation measures and development or other activities in and related to all Commonwealth programs administered by the commission.

(b) The Pennsylvania Historical and Museum Commission is authorized to provide for incidental expenses, such as transportation, uniforms, lodging and subsistence, incurred by volunteers in the course of their service as volunteers.

(c) (1) Except as otherwise provided in this section, a volunteer shall not be deemed to be a Commonwealth employe and shall not be subject to the provisions of law relating to Commonwealth employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation and Commonwealth employe benefits.

(2) Volunteers performing work under the terms of this section shall be authorized to operate Commonwealth vehicles and shall be treated for the purposes of automotive and general liability as employes of the Commonwealth.

(3) For the purposes of the act of June 2, 1915 (P.L.736, No.338), known as the "Workers' Compensation Act," relating to compensation to employes for work injuries, volunteers under the provisions of this section shall be deemed employes of the Commonwealth within the meaning of the term "employe" as defined in section 104 of the "Workers' Compensation Act," and the provisions of that act shall apply.

(4) No volunteer shall be assigned to any position presently filled in the Pennsylvania Historical and Museum Commission.

(d) The Pennsylvania Historical and Museum Commission shall have the power and the authority to do all things necessary and expedient to establish and operate a volunteer program and to promulgate rules and regulations under this section.

Section 530. Aviation Restricted Account.--(a) This section regulates the special account established in 74 Pa.C.S. § 5103 (relating to Aviation Restricted Account).

(b) The revenue from the following sources shall be deposited in the Aviation Restricted Account:

(1) Proceeds of all excise taxes upon the use of fuel in aircraft engines.

(2) The cost of the use of Department of Transportation aircraft by Commonwealth agencies and the General Assembly, charged pursuant to 74 Pa.C.S. § 5302 (relating to aircraft for official use).

(3) Money collected under 74 Pa.C.S. §§ 5703 (relating to disposition of fines, fees and forfeitures) and 5901 (relating to Harrisburg International Airport).

(4) Proceeds from the sale of State-owned airports or property thereon.

(5) Proceeds from rents, fees and other moneys derived from any source under 74 Pa.C.S. § 5903 (relating to authority of department).

(6) All interest earned on money in the account.

(c) The money from time to time in the account, after providing for the cost of administration and collection of the excise tax upon the use of fuel in aircraft or aircraft engines, shall be appropriated by the General Assembly to the department or political subdivisions for use in the following manner:

(1) The portion of the account derived from the tax on fuel sold for use in propeller-driven piston aircraft or aircraft engines as provided for in the act of May 21, 1931 (P.L.149, No.105), known as "The Liquid Fuels Tax Act," and the act of January 14, 1952 (1951 P.L.1965, No.550), known as the "Fuel Use Tax Act," and all the money collected under 74 Pa.C.S. § 6121 (relating to tax on aviation fuels) shall be reserved solely for local real estate tax reimbursements for public airports, for costs of administering the program as provided for in 74 Pa.C.S. § 6122(e) (relating to allocation of funds) and for payment of obligations incurred for such purposes. This portion of the account shall be maintained by the State Treasurer and shall be administered by the department. On or before February 1 of each year, the State Treasurer shall notify the department of the money collected and deposited in that portion of the account reserved solely for local real estate tax reimbursements for the preceding calendar year. The notification shall include any money gained through the State Treasurer's investment of revenue.

(2) The portion of the account derived from the tax on fuel sold for use in turbine-propelled jet, turbojet and jet-driven aircraft and aircraft engines as provided for in "The Liquid Fuels Tax Act" and the "Fuel Use Tax Act" and all the money collected pursuant to 74 Pa.C.S. § 6131 (relating to tax on jet fuels) shall be appropriated to fund the continuation of existing aviation programs, including aviation development grants; a runway marking program for public airports; administration, operation and maintenance of all State-owned airports, other than Harrisburg International Airport; payment of debt service for improvements on State-owned airports, including improvements at Harrisburg International Airport authorized prior to July 1, 1984; matching fund programs for public airports as determined by the Statewide regional apportionment formula; and the operations of the Bureau of Aviation. The sum allotted for bureau operations shall not exceed the amount of aviation development grants.

(3) The balance of the account may be used for the purchase, construction, reconstruction, operation and maintenance of State-owned airports, including Harrisburg International Airport; the operation, maintenance and other costs of aircraft owned or leased by the Commonwealth; and any other purpose reasonably related to air navigation. The money in the account shall not be diverted by transfer or otherwise to any other purpose.

Section 3. Section 1311 of the act, amended July 7, 1976 (P.L.986, No.199), is amended to read:

Section 1311. Boards of Trustees of State Institutions Within the Department.--The Board of Trustees of Scranton State School for the Deaf[, the Board of Trustees of Scotland School for Veterans' Children,] and the Board of Trustees of Thaddeus Stevens [Trade School] **State School of Technology**, shall have general direction and control of the property and management of their

respective institutions. Each of the boards of trustees shall have the power and its duty shall be:

(a) Subject to the approval of the Governor, to elect a president, principal, or superintendent, of the institution, who shall, subject to the authority of the board, administer the institution, and, if deemed advisable, a business manager.

(b) On nomination by the president, principal, or superintendent, from time to time, to appoint such officers and employes as may be necessary;

(c) To fix the salaries of its employes in conformity with the standards established by the Executive Board;

(c.1) To authorize the superintendent or business manager of the institution to purchase instructional materials, education, technical, administrative, custodial and maintenance equipment and supplies not in excess of a cost of one thousand five hundred dollars (\$1,500) without competitive bidding with the approval of the board of trustees, after notice to the Secretary of General Services, except that such items shall not be bought in series to avoid the dollar ceiling, nor shall any items be included for which the Department of General Services has contracts, either through schedules or group purchase contracts, current or proposed;

(d) Subject to the approval of the Secretary of Education, to make such by-laws, rules and regulations for the management of the institution as it may deem advisable.

Section 4. The act is amended by adding sections to read:

Section 1321. Collective Bargaining.--(a) School administrators employed by a city of the first class shall, through labor organizations or other representatives designated by fifty per centum (50%) or more of such school administrators, have the right to bargain collectively with their public employers concerning the terms and conditions of their employment, including compensation, hours, working conditions, retirement, pension and other benefits, and shall have the right to an adjustment or settlement of their grievances or disputes in accordance with the terms of this section.

(b) It shall be the duty of the public employers and their school administrator employes to settle all disputes by engaging in collective bargaining in good faith and by entering into settlements by way of written agreements and maintaining the same.

(c) Collective bargaining shall begin at least six months before the start of the fiscal year of cities of the first class, and any request for arbitration, as provided in this section, shall be made at least one hundred ten (110) days before the start of the fiscal year.

(d) If in any case of a dispute between a public employer and its school administrator employes the collective bargaining process reaches an impasse and stalemate, with the result that employers and employes are unable to effect a settlement, then either party to the dispute, after written notice to the other party containing specifications of the issue or issues in dispute, may request the appointment of a board of arbitration. For purposes of this section, an impasse or stalemate shall be deemed to occur in the collective bargaining process if the parties do not reach a settlement of the issue or issues in dispute by way of a written agreement within thirty (30) days after collective bargaining proceedings have been initiated.

(e) The board of arbitration shall be composed of three persons, one appointed by the public employer, one appointed by the body of school administrators involved and a third member to be agreed upon by the public employer and such school administrators. The members of the board representing the public employer and the school administrators shall be named within five (5) days from the date of the request for the appointment of the board. If after a period of ten (10) days from the date of the appointment of the two

arbitrators appointed by the public employer and the school administrators the third arbitrator has not been selected by them, then either arbitrator may request the American Arbitration Association or its successor in function to furnish a list of three members of the association who are residents of this Commonwealth from which the third arbitrator shall be selected. The arbitrator appointed by the public employer shall eliminate one name from the list within five (5) days after publication of the list, following which the arbitrator appointed by the school administrators shall eliminate one name from the list within five (5) days thereafter. The individual whose name remains on the list shall be the third arbitrator and shall act as chairman of the board of arbitration. The board of arbitration thus established shall commence the arbitration proceedings within ten (10) days after the third arbitrator is selected and shall make its determination within thirty (30) days after the appointment of the third arbitrator.

(f) Notice by the school administrators involved under subsection (e) of this section shall be served upon the Secretary of Education.

(g) Each of the arbitrators selected in accordance with subsection (e) of this section shall have the power to administer oaths and compel the attendance of witnesses and physical evidence by subpoena.

(h) The determination of the majority of the board of arbitration thus established shall be final on the issue or issues in dispute and shall be binding upon the public employer and the school administrators involved. The determination shall be in writing, and a copy thereof shall be forwarded to both parties to the dispute. No appeal therefrom shall be allowed to any court. The determination shall constitute a mandate to the superintendent of schools in cities of the first class, with respect to matters which can be remedied by administrative action, to take the action necessary to carry out the determination of the board of arbitration.

(i) The compensation, if any, of the arbitrator appointed by the school administrators shall be paid by them. The compensation of the other two arbitrators, as well as stenographic and other expenses incurred by the arbitration panel in connection with the arbitration proceedings, shall be paid by the school district in cities of the first class.

(j) School administrators shall be subject to the prohibitions as set forth in the act of June 30, 1947 (P.L.1183, No.492), referred to as the Public Employe Anti-Strike Law.

(k) The provisions of this section shall be applicable to cities of the first class, notwithstanding the fact that such cities of the first class, either before or after the effective date of this section, have adopted or adopt a home rule charter.

(l) As used in this section, the term "school administrator" shall mean all supervisory and administrative employees of a school district below the rank of superintendent, district superintendent, executive director, associate superintendent, assistant superintendent or assistant executive director, but including those persons having the rank of first level supervisor.

Section 1933-A. Payments for Certain Inspectors.--(a) The Department of Environmental Protection is authorized to pay for the host inspection training program and to pay fifty per centum (50%) of the approved cost of employing a certified host municipality inspector, as provided for in section 1102 of the act of July 28, 1988 (P.L.556, No.101), known as the "Municipal Waste Planning, Recycling and Waste Reduction Act."

(b) The Department of Environmental Protection shall reimburse host municipalities for fifty per centum (50%) of the approved cost of employing certified host municipality inspectors, as provided

under section 304 of the act of October 18, 1988 (P.L.756, No.108), known as the "Hazardous Sites Cleanup Act."

Section 2507. Contribution to Korea/Vietnam Memorial National Education Center.--(a) (1) For tax years 1997, 1998, 1999 and 2000, the department shall provide a space on the face of the Pennsylvania individual income tax return form whereby an individual may voluntarily designate a contribution of any amount from the individual's tax refund to KVM.

(2) The amount designated by an individual on the Pennsylvania individual income tax return form shall be deducted from the tax refund to which such individual is entitled and shall not constitute a charge against the income tax revenues due the Commonwealth.

(3) The department shall determine annually the total amount designated by individual taxpayers under this section and shall report the amount to the State Treasurer who shall prepare the appropriate documentation and transfer the designated amount from the General Fund to KVM.

(4) The department shall provide adequate information regarding the center and its purposes in its instructions for tax years 1997, 1998, 1999 and 2000 which accompany Pennsylvania individual income tax return forms to include the address of KVM to which contributions may be sent by taxpayers who wish to make additional contributions to the center.

(5) This subsection shall apply solely to taxable years 1997, 1998, 1999 and 2000.

(b) (1) KVM shall use all contributions collected under this section to carry out the following purposes and responsibilities:

(i) Determine and prioritize the funding objectives deemed most necessary to facilitate the development of the center.

(ii) Obtain assistance and advice from the Department of Military Affairs, veterans' organizations and the public regarding the development of the center.

(iii) Establish projects or programs appropriate to the furtherance of the purposes of this act, and allocate moneys to such public or private organizations selected to implement those programs or projects.

(iv) Establish programs to promote the voluntary contribution system set forth in this act and other lawful programs to solicit additional contributions to KVM and allocate moneys to implement the same.

(v) Submit a report to the Military and Veterans Affairs Committee of the Senate and the Veterans Affairs and Emergency Preparedness Committee of the House of Representatives by December 31, 2000, to include a financial analysis and a synopsis of the use of the funds collected under the voluntary contribution system.

(2) KVM may use funds collected under this section to develop a program for the sale of public stamps, decals or other items of personal property to the public intended to signify the interest of the purchaser in contributing to the center.

(c) KVM may establish an advisory committee, the members of which shall be chosen from State and local officials, veterans organizations and the general public. Membership shall include the Adjutant General or his designee and at least one member of the State Armory Board or his designee. The advisory committee shall make recommendations regarding general management objectives, obtain input from the public on the development of the center and advise KVM on specific projects and programs in furtherance of this section.

(d) The checkoff system created by this section shall not be the only such checkoff allowed on Pennsylvania individual income tax return forms seeking voluntary contributions from tax refunds. In the event KVM shows a net loss after the deduction of administrative costs by the department for two (2) consecutive

years and the Secretary of the Budget and the State Treasurer certify to the General Assembly that such loss has in fact occurred, then the Advisory Committee and all of its powers and duties shall terminate and go out of existence within sixty (60) days of the certification.

(e) Except to complete any transfer required by this section, no moneys from the General Fund shall be used for the purposes of this section.

(f) The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Center." The National Education Center.

"Department." The Department of Revenue of the Commonwealth.

"KVM." Korea/Vietnam Memorial, Inc., a Pennsylvania nonprofit corporation.

Section 2508. Sales and Use Tax Exclusion for Commercial Racing Activities.--(a) The sale or use of horses to be used exclusively for commercial racing activities and the sale and use of feed, bedding, grooming supplies, riding tack, farrier services, portable stalls and sulkies for horses used exclusively for commercial racing activities is excluded from the tax imposed by section 202 of the act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971." The propagation and raising of horses to be used exclusively for commercial racing activities shall be deemed farming under section 201(k) (8) (B) and (o) (4) (B) (ii) of the "Tax Reform Code of 1971."

(b) As used in this section, the term "commercial racing activities" shall mean:

(1) thoroughbred and harness racing at which pari-mutuel wagering is conducted under the act of December 17, 1981 (P.L.435, No.135), known as the "Race Horse Industry Reform Act"; or

(2) fair racing sanctioned by the State Harness Racing Commission.

Section 5. The Scotland School for Veterans' Children is hereby transferred from the Department of Education to the Department of Military and Veterans Affairs. All of the functions of the Department of Education with respect to the Board of Trustees of Scotland School for Veterans' Children are hereby transferred from the Department of Education to the Department of Military and Veterans Affairs. The transfer of the Board of Trustees of the Scotland School for Veterans' Children from the Department of Education to the Department of Military and Veterans Affairs shall constitute a transfer of the function and powers and duties of the Board of Trustees of Scotland School for Veterans' Children from the Department of Education to the Department of Military and Veterans Affairs. The authority of the Secretary of Education pertaining to the classification of persons under section 5 of the act of August 5, 1955 (P.L.306, No.119), entitled "An act establishing minimum compensation and increments for administrators and members of the faculty of the Scotland School for Veterans' Children; and imposing duties on the board of trustees of such school and the Superintendent of Public Instruction," is transferred from the Department of Education to the Department of Military Affairs.

Section 6. (a) Any orders, guidelines, policies, decisions and other actions issued by the Department of Education for the functions transferred to the Department of Military and Veterans Affairs shall remain in effect until such time as the Department of Military and Veterans Affairs shall determine the need to amend such orders, guidelines, policies, decisions or other actions.

(b) Allocations, the unexpended balance of appropriations, fixed assets, equipment, files, records, contracts, agreements, obligations and all other materials and supplies which are used,

employed or expended by the Scotland School for Veterans' Children and personnel employed at the Scotland School for Veterans' Children in connection with the functions transferred by this act to the Department of Military and Veterans Affairs in the first instance shall be transferred from the Department of Education to the Department of Military and Veterans Affairs and shall be considered as if these contracts, agreements and obligations had been incurred or entered into by the Department of Military and Veterans Affairs.

(c) The items transferred by this section shall include, where applicable, Federal grants and funds and other benefits from any Federal program.

(d) All personnel transferred under this act shall retain any civil service or other employment status assigned to said personnel. Those employees transferred pursuant to this act who hold positions which are included in civil service but who do not have civil service status and who have six months of service or less in their present classification on the effective date of this act are hereby granted probationary status without examination.

(e) Notwithstanding the transfer of the Scotland School for Veterans' Children from the Department of Education to the Department of Military and Veterans Affairs under this act, the following acts or parts of acts shall remain in full force and effect insofar as they relate to teachers at the Scotland School for Veterans' Children:

Sections 1, 2, 4, 5, 9, 10, 11, 12 and 12.1 of the act of May 27, 1893 (P.L.171, No.118), entitled, as amended, "An act providing for the acquisition of land and the erection, equipment, management, and operation of the Scotland School for Veterans' Children; the maintenance of children admitted thereto, and regulating the admissions to and discharges from the said Scotland School for Veterans' Children."

Section 1 of the act of April 17, 1905 (P.L.195, No.137), entitled "An act to extend the benefits of the Soldiers' Orphan Industrial School and the Soldiers' Orphan Schools to the children of honorably discharged soldiers, sailors and marines of the Philippine war."

Section 1 of the act of February 26, 1919 (P.L.3, No.1), entitled "An act to extend the benefits of the Soldiers' Orphan Industrial School to orphan or destitute children of honorably discharged soldiers, sailors, and marines, of the war with Germany and Austria, or of any movement or campaign in connection therewith or resulting therefrom."

Sections 1, 2, 3, and 4 of the act of May 21, 1943 (P.L.302, No.140), entitled, as amended, "An act providing for the admission of children to, and their education and maintenance in, and their discharge from the Scotland School for Veterans' Children; prohibiting discharging children or taking children from said school, or children from leaving the same without an order of the Board of Trustees of the Scotland School for Veterans' Children; and prescribing penalties."

Section 1926 of the act of March 10, 1949 (P.L.30, No.14), known as the "Public School Code of 1949."

Section 5.1 of the act of July 8, 1957 (P.L.579, No.321), entitled, as amended, "An act establishing minimum compensation and increments for members of the faculty and administration of the Thaddeus Stevens State School of Technology, the Scotland School for Veterans' Children, and the Scranton State School for the Deaf, providing leave of absence with pay for faculty members and the superintendent of schools and imposing duties on the Board of Trustees of such schools and the Secretary of Education."

Section 7. (a) The following acts and parts of acts are repealed:

Section 1102(a)(3) of the act of July 28, 1988 (P.L.556, No.101), known as the Municipal Waste Planning, Recycling and Waste Reduction Act.

Section 304(b)(3) of the act of October 18, 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup Act.

74 Pa.C.S. § 5103(b) and (c).

(b) All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 8. The addition of section 1321 of the act shall expire 96 months after the close of the calendar year in which this act takes effect.

Section 9. This act shall take effect as follows:

(1) The addition of section 2507 of the act shall take effect in 60 days.

(2) The remainder of this act shall take effect July 1, 1996, or immediately, whichever is later.

APPROVED--The 11th day of July, A. D. 1996.

THOMAS J. RIDGE