

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 435

Session of
1981

INTRODUCED BY A. K. HUTCHINSON, FEBRUARY 9, 1981

REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 9, 1981

AN ACT

1 Amending the act of April 9, 1929 (P.L.343, No.176), entitled
2 "An act relating to the finances of the State government;
3 providing for the settlement, assessment, collection, and
4 lien of taxes, bonus, and all other accounts due the
5 Commonwealth, the collection and recovery of fees and other
6 money or property due or belonging to the Commonwealth, or
7 any agency thereof, including escheated property and the
8 proceeds of its sale, the custody and disbursement or other
9 disposition of funds and securities belonging to or in the
10 possession of the Commonwealth, and the settlement of claims
11 against the Commonwealth, the resettlement of accounts and
12 appeals to the courts, refunds of moneys erroneously paid to
13 the Commonwealth, auditing the accounts of the Commonwealth
14 and all agencies thereof, of all public officers collecting
15 moneys payable to the Commonwealth, or any agency thereof,
16 and all receipts of appropriations from the Commonwealth and
17 imposing penalties; affecting every department, board,
18 commission, and officer of the State government, every
19 political subdivision of the State, and certain officers of
20 such subdivisions, every person, association, and corporation
21 required to pay, assess, or collect taxes, or to make returns
22 or reports under the laws imposing taxes for State purposes,
23 or to pay license fees or other moneys to the Commonwealth,
24 or any agency thereof, every State depository and every
25 debtor or creditor of the Commonwealth," further providing
26 for post-audits of agencies receiving State aid and
27 authorizing commencement of certain legal proceedings by the
28 Department of the Auditor General.

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

1 Section 1. Section 403, act of April 9, 1929 (P.L.343,
2 No.176), known as "The Fiscal Code," is amended to read:

3 Section 403. [Audits] Post-Audits of Agencies Receiving
4 State Aid.--The Department of the Auditor General shall have the
5 power, and its duty shall be, to [audit] make post-audits of the
6 accounts and records of every person, association, corporation,
7 and public agency, receiving an appropriation of money, payable
8 out of any fund in the State Treasury, or entitled to receive
9 any portion of any State tax for any purpose whatsoever, as far
10 as may be necessary to satisfy the department that the money
11 received was expended or is being expended for no purpose other
12 than that for which it was paid. Copies of all such audits shall
13 be furnished to the Governor.

14 If at any time the department shall find that any money
15 received by any person, association, corporation, or public
16 agency, has been expended for any purpose other than that for
17 which it was paid, it shall forthwith notify the Governor, and
18 the State Treasurer and shall direct the State Treasurer to
19 decline to approve any further requisition for the payment of
20 any appropriation, or any further portion of any State tax, to
21 such person, association, corporation or public agency, until an
22 amount equal to that improperly expended shall have been
23 expended for the purpose for which the money improperly expended
24 was received from the State Treasury. In proper cases, the
25 Department of the Auditor General may, with the approval of the
26 Attorney General, commence any criminal prosecution or civil
27 proceeding necessary to enforce the provisions of this section.

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

29 Section 409. Commencement of Legal Proceedings.--Whenever in
30 the course of its duties the Department of the Auditor General

1 uncovers conduct which justifies timely criminal prosecution or
2 a civil proceeding to enforce compliance with law, it may with
3 the approval of the Attorney General commence such proceeding in
4 any court of the Commonwealth having jurisdiction.

5 Section 3. Subsection (b) of section 1406 of the act is
6 amended to read:

7 Section 1406. Action to Recover Transfer Inheritance Taxes
8 and Other Debts Due or Property Escheating to the
9 Commonwealth.--* * *

10 (b) The Department of Justice, at its discretion, or the
11 Department of the Auditor General with the approval of the
12 Department of Justice, acting for and on behalf of the
13 Department of Revenue, shall have authority to cause to be
14 commenced, in the name of the Commonwealth, in any court of the
15 Commonwealth having jurisdiction, any appropriate suit at law or
16 in equity, by action of assumpsit or otherwise, for any money or
17 taxes due the Commonwealth, or property belonging to or liable
18 to escheat to the same, and a remedy by means of such suit is
19 hereby provided, whether it be now authorized by law or not, and
20 any action at law or in equity, both by bill in the nature of a
21 bill of discovery in equity, or otherwise, which may be
22 necessary for the ascertainment of the fact as to whether such
23 money, taxes, or property exists, and are due the Commonwealth,
24 whether the defendant or defendants therein have or have not
25 made any or all reports thereof required by law.

26 * * *

27 Section 4. This act shall take effect immediately.