

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2885 Session of
1980

INTRODUCED BY SELTZER, RYAN, GALLEN, NOYE, WENGER, DIETZ,
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BOWSER, AUGUST 8, 1980

REFERRED TO COMMITTEE ON STATE GOVERNMENT, AUGUST 8, 1980

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," abolishing the Bureau of
21 Correction in the Department of Justice, creating a
22 Department of Correction and making related substantive and
23 editorial changes.

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

26 Section 1. Section 201, act of April 9, 1929 (P.L.177,

1 No.175), known as "The Administrative Code of 1929," amended
2 June 20, 1978 (P.L.477, No.70), is amended to read:

3 Section 201. Executive Officers, Administrative Departments
4 and Independent Administrative Boards and Commissions.--The
5 executive and administrative work of this Commonwealth shall be
6 performed by the Executive Department, consisting of the
7 Governor, Lieutenant Governor, Secretary of the Commonwealth,
8 Attorney General, Auditor General, State Treasurer, and
9 Secretary of Education; by the Executive Board, and the
10 Pennsylvania State Police; by the following administrative
11 departments: Department of State, Department of Justice,
12 Department of Correction, Department of the Auditor General,
13 Treasury Department, Department of Education, Department of
14 Military Affairs, Insurance Department, Department of Banking,
15 Department of Agriculture, Department of Transportation,
16 Department of Health, Department of Labor and Industry,
17 Department of Aging, Department of Public Welfare, Department of
18 General Services, Department of Revenue, Department of Commerce,
19 Department of Community Affairs and Department of Environmental
20 Resources; and by the following independent administrative
21 boards and commissions: Pennsylvania Game Commission,
22 Pennsylvania Fish Commission, State Civil Service Commission,
23 Pennsylvania Public Utility Commission, the Pennsylvania
24 Historical and Museum Commission and the Pennsylvania Securities
25 Commission.

26 All of the provisions of this act, which apply generally to
27 administrative departments, or generally except to the
28 Department of the Auditor General and the Treasury Department,
29 shall apply to the Executive Board and to the Pennsylvania State
30 Police.

1 Section 2. Section 202 of the act, insofar as it relates to
2 the Department of Justice, amended July 9, 1976 (P.L.574,
3 No.139), is amended to read:

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

10 * * *

11 In the Department of Justice,

12 Board of Pardons,

13 Crime Victim's Compensation Board,

14 Board of Commissioners on Uniform State Laws,

15 Pennsylvania Crime Commission,

16 [Board of Trustees of State Correctional Institution at
17 Philadelphia,

18 Board of Trustees of State Correctional Institution at
19 Pittsburgh,

20 Board of Trustees of State Correctional Institution at
21 Rockview,

22 Board of Trustees of State Correctional Institution at
23 Graterford,

24 Board of Trustees of State Correctional Institution at
25 Huntingdon,

26 Board of Trustees of State Correctional Institution at
27 Camp Hill,

28 Board of Trustees of State Correctional Institution at
29 Muncy.]

30 Juvenile Court Judges Commission.

1 * * *

2 Section 3. Section 206 and clause (1) of subsection (d) of
3 section 207.1 of the act, amended June 20, 1978 (P.L.477,
4 No.70), are amended to read:

5 Section 206. Department Heads.--Each administrative
6 department shall have as its head an officer who shall, either
7 personally, by deputy, or by the duly authorized agent or
8 employe of the department, and subject at all times to the
9 provisions of this act, exercise the powers and perform the
10 duties by law vested in and imposed upon the department.

11 The following officers shall be the heads of the
12 administrative departments following their respective titles:

13 Secretary of the Commonwealth, of the Department of State;
14 Attorney General, of the Department of Justice;
15 Auditor General, of the Department of the Auditor General;
16 State Treasurer, of the Treasury Department;
17 Secretary of Education, of the Department of Education;
18 Adjutant General, of the Department of Military Affairs;
19 Insurance Commissioner, of the Insurance Department;
20 Secretary of Banking, of the Department of Banking;
21 Secretary of Agriculture, of the Department of Agriculture;
22 Secretary of Transportation, of the Department of
23 Transportation;
24 Secretary of Health, of the Department of Health;
25 Secretary of Labor and Industry, of the Department of Labor
26 and Industry;
27 Secretary of Aging, of the Department of Aging;
28 Secretary of Public Welfare, of the Department of Public
29 Welfare;
30 Secretary of Revenue, of the Department of Revenue;

1 Secretary of Commerce, of the Department of Commerce;
2 Secretary of Community Affairs, of the Department of
3 Community Affairs;
4 Secretary of Environmental Resources, of the Department of
5 Environmental Resources;
6 Secretary of General Services, of the Department of General
7 Services;
8 Secretary of Correction, of the Department of Correction.

9 Section 207.1. Gubernatorial Appointments.--* * *

10 (d) The Governor shall nominate in accordance with the
11 provisions of the Constitution of the Commonwealth of
12 Pennsylvania and, by and with the advice and consent of a
13 majority of the members elected to the Senate appoint persons to
14 fill the following positions:

15 (1) The [Attorney General, the] Secretary of Education, the
16 Secretary of the Commonwealth, the Adjutant General, the
17 Insurance Commissioner, the Secretary of Banking, the Secretary
18 of Agriculture, the Secretary of Transportation, the Secretary
19 of Health, the Commissioner of the State Police, the Secretary
20 of Correction, the Secretary of Labor and Industry, the
21 Secretary of Aging, the Secretary of Public Welfare, the
22 Secretary of General Services, the Secretary of Revenue, the
23 Secretary of Commerce, the Secretary of Community Affairs and
24 the Secretary of Environmental Resources.

25 * * *

26 Section 4. Sections 911, 912, 913, 914, 914.1, 915 and 916
27 of the act are repealed.

28 Section 5. The act is amended by adding an article to read:

29 ARTICLE IX-B

30 POWERS AND DUTIES OF THE DEPARTMENT OF CORRECTION

1 Section 901-B. General Powers and Duties of the
2 Department.--The Department of Correction shall have the powers
3 and duties granted to and imposed upon it by this article and by
4 any other statutory provisions. In addition, it shall have all
5 the powers and duties granted to and imposed upon the former
6 Bureau and Commissioner of Correction prior to the effective
7 date of this article and shall also have all the powers and
8 duties formerly vested in and exercised by the Attorney General
9 and the Department of Justice insofar as such powers and duties
10 related to the administration, management and supervision of
11 penal and correctional facilities, programs and services.

12 Section 902-B. Powers and Duties of the Secretary.--(a) The
13 Secretary of Correction shall have general direction and control
14 of the property and management of the penal and correctional
15 institutions under the jurisdiction of the Department of
16 Correction. The Secretary of Correction shall have the power and
17 his duty shall be:

18 (1) Subject to the approval of the Governor, to appoint a
19 superintendent of each penal and correctional institution who
20 shall, subject to the authority of the Secretary of Correction,
21 administer the institution in accordance with law. The
22 superintendents in charge of the State penal and correctional
23 institutions, with the approval of the Secretary of Correction,
24 shall appoint, assign and dismiss the personnel of such
25 institutions.

26 (2) To appoint such other deputies, wardens,
27 superintendents, experts, professional, technical and skilled
28 personnel as may be required for the proper administration of
29 the penal and correctional institutions within the jurisdiction
30 of the Department of Correction.

1 (3) To fix the salaries of the employes in conformity with
2 standards established by the Executive Board.

3 (4) To promulgate rules and regulations for the management
4 of the department and the penal and correctional institutions
5 under the jurisdiction of the department.

6 (b) All positions in the Department of Correction which are
7 substantially identical to positions in the former Bureau of
8 Correction which were included in the classified service
9 pursuant to section 3(d) of the act of August 5, 1941 (P.L.752,
10 No.286), known as the "Civil Service Act" shall likewise be
11 included in the classified service in the Department of
12 Correction.

13 Section 903-B. Penal and Correctional Institutions.--The
14 Department of Correction shall have the power and its duty shall
15 be to supervise and control the State Correctional Institution
16 at Pittsburgh, State Correctional Institution at Rockview, State
17 Correctional Institution at Graterford, State Correctional
18 Institution at Huntingdon, State Correctional Institution at
19 Camp Hill, State Correctional Institution at Muncy, State
20 Correctional Institution at Dallas and such State correctional
21 facilities, regional jails, forestry camps and other State penal
22 or correctional off-institution grounds, facilities or
23 installations which have been and which may be established by
24 law.

25 Section 904-B. Deputy Secretary for Treatment.--The
26 Secretary of Correction shall appoint one (1) Deputy Secretary
27 for Treatment, who shall be in charge of and responsible for the
28 administration of the Eastern Correctional Diagnostic and
29 Classification Center, the Western Correctional Diagnostic and
30 Classification Center and such other diagnostic and

classification centers established by the department as may be necessary to fulfill the needs of the Commonwealth. He shall have the sole responsibility for the transfer of persons from said diagnostic and classification centers to State institutions and the transfer of persons from one State institution to another. If for any reason he is unable to act or his office is vacated, his duty with regard to such transfers may be performed by the Secretary of Correction or someone specifically delegated by the Secretary of Correction.

Section 905-B. Inmate Labor at Nonpenal Institutions.--The Department of Correction shall have the power and its duty shall be:

(1) To establish in nonpenal institutions, or on the grounds thereof, facilities for minimum risk inmates of penal institutions; and

(2) To assign or transfer inmates to minimum risk facilities at nonpenal institutions for such time and at such employment as the Secretary of Correction shall deem to be in the best interests of the inmate.

Section 906-B. Inmate Labor.--The Department of Correction shall have the power and its duty shall be:

(1) To establish, maintain and carry on industries in the State penal and correctional institutions under the jurisdiction of the Department of Correction as it may deem proper, in which industries all persons sentenced to, assigned to or transferred to such institutions, who are physically capable of such labor, may be employed at labor for not to exceed eight (8) hours each day, other than Sundays and public holidays. Such labor shall include but not be limited to, printing or manufacturing and producing supplies, the preparation and manufacture of building

1 materials for the construction or repair of any State
2 institution, in the work of such construction or repair, the
3 planting of seed trees, the purpose of industrial training or
4 instruction, and the manufacture and production of crushed
5 stone, brick, tile and culvert pipe or other material suitable
6 for draining roads of the State or in preparation of road
7 building and ballasting material.

8 (2) To determine the amount, kind and character of the
9 machinery to be erected in each of the penal or correctional
10 institutions in the Department of Correction and the industries
11 to be carried on therein, having due regard to the location and
12 convenience thereof with respect to other institutions to be
13 supplied to the machinery therein and the number and character
14 of inmates.

15 (3) To contract to sell or sell the articles manufactured or
16 produced in the said industries carried on in the penal or
17 correctional institutions, which cannot be used therein, to the
18 Commonwealth or to any political subdivision thereof, or to any
19 State, municipality, or county authority, created by or under
20 any law of this Commonwealth, or to any State institution, or to
21 any educational or charitable institution receiving aid from the
22 Commonwealth, or to the Government of the United States or any
23 department, bureau, commission, authority or agency thereof, or
24 to any other State or political subdivision or authority
25 thereof, or to any institution receiving aid from the Government
26 of the United States or of any other state.

27 (4) To arrange for the employment of inmates of such
28 institutions at such work or labor within or upon the grounds of
29 such institutions as may be necessary for the maintenance of the
30 institutions or the raising of food products therefor.

1 (5) To charge to each institution, such rate per diem as may
2 be paid by the department to such inmate hereunder for his
3 services, for the work or labor of each inmate engaged in work
4 or labor within or upon the grounds of such institution for the
5 maintenance of the institution or the raising of food products
6 therefor. Also to collect from each such institution, for any
7 manufactured supplies or products used by it, the same price per
8 article used as it would receive upon the sale of such article
9 in similar quantities to the Commonwealth or any other agency to
10 which it is authorized to sell articles manufactured or produced
11 by inmate labor. All amounts collected by the Department of
12 Correction from such institutions hereunder shall be paid
13 through the Department of Revenue into the Manufacturing Fund in
14 the State Treasury and all such amounts shall be considered a
15 part of such institutions' maintenance expense.

16 (6) To charge to each such institution, in like manner, for
17 the labor of all inmates engaged in preparing materials for the
18 construction of buildings or in doing construction work, such
19 payments to be made by the institutions out of funds available
20 for construction work. All moneys received hereunder shall be
21 paid into the Manufacturing Fund through the Department of
22 Revenue.

23 (7) Through the Department of Revenue, to pay into the
24 Manufacturing Fund the proceeds of all sales of manufactured
25 products made under this section and all moneys received for the
26 labor of inmates in State forests or elsewhere than on the
27 grounds of the institution. This clause shall not, however,
28 apply to the sale of surplus food products or products of the
29 soil as elsewhere in this act permitted.

30 (8) To pay out of the Manufacturing Fund all expenses

necessary for the proper conduct of the work of the Department of Correction pertaining to the establishment, maintenance and carrying on of industries in the State penal and correctional institutions and the rehabilitation of the inmates thereof. Estimates of the amounts to be expended from the Manufacturing Fund shall be submitted to the Governor, from time to time, for his approval or disapproval, as in the case of other appropriations, and it shall be unlawful for the Department of the Auditor General to honor any requisition for expenditures or moneys out of this appropriation in excess of the estimates approved by the Governor. Subject to this provision, the Department of the Auditor General shall, from time to time, draw warrants upon the Treasury Department for the amounts specified in such requisitions, not exceeding, however, the amount in the Manufacturing Fund at the time of the making of any such requisitions.

(9) To require that an account shall be kept, by the proper officers of each penal and correctional institution, of the labor performed by inmates. In such account shall be shown, at the time each inmate is actually engaged in work, the rate of wage at which he is to be paid, which shall be regulated by the department. In no case shall the amount be less than ten cents for each day of labor actually performed. The rate of compensation shall be based both upon the pecuniary value of the work performed and also on the willingness, industry and good conduct of the inmate. All amounts payable to inmates hereunder shall be paid to the institution out of the Manufacturing Fund, to be disbursed or held by such institution in the manner following:

(i) Three-fourths of the amount of wages payable to an

inmate of such penal or correctional institution, or the entire amount if the inmate so wishes, shall constitute a fund for the relief of any person or persons dependent upon such inmate, and shall be paid to the person or persons establishing such dependency.

(ii) All sums credited to any inmate and not paid to a dependent or dependents shall be paid to the inmate on his discharge from the penal or correctional institution in which he was a prisoner. However, subject to the rules and regulations of the department, the whole or any part of said sum may be paid to him during his imprisonment for his present needs.

(10) To have and exercise supervision over the labor employed in the aforesaid industries and to make rules and regulations for carrying on such industries.

(11) To the extent to which the Department of Correction is unable to provide work for every physically able inmate of such institutions, to permit inmates to engage in such work or industries as the department may approve and which they are able to provide from other sources, but all such work shall be performed, the products thereof sold, and the proceeds thereof disposed of, under the rules and regulations of the Department of Correction covering the same.

Section 6. The annual salary of the Secretary of Correction shall be forty-one thousand two hundred fifty dollars (\$41,250).

Section 7. All personnel, allocations, appropriations, equipment, files, records, contracts, agreements, obligations and other materials which are used, employed or expended in connection with the powers, duties or functions given by this amendatory act to the Department of Correction, which powers, duties and functions were formerly exercised by the Bureau of

1 Correction or the Department of Justice are hereby transferred
2 to the Department of Correction with the same force and effect
3 as if the appropriations had been made to and said items had
4 been the property of the Department of Correction in the first
5 instance and as if said contracts, agreements and obligations
6 had been incurred or entered into by said Department of
7 Correction. All personnel transferred to the Department of
8 Correction from the Bureau of Correction pursuant to this act
9 shall retain any civil service or other employment status
10 assigned to said personnel in the Bureau of Correction prior to
11 the effective date of this act.

12 Section 8. All acts or parts of acts inconsistent with this
13 act are hereby repealed to the extent of the inconsistency.

14 Section 9. This act shall take effect January 20, 1981;
15 however, prior to such date, the Governor may nominate and
16 submit to the Senate for their confirmation a person to serve as
17 Secretary of Correction who shall take office on January 20,
18 1981 or as soon thereafter as possible.