

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 94

Session of
1995

INTRODUCED BY D. R. WRIGHT, DeLUCA, HALUSKA, ROBERTS, STABACK,
TRELLO AND CIVERA, JANUARY 19, 1995

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
JANUARY 19, 1995

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," implementing the abolition
21 of the Department of Environmental Resources; establishing
22 the Department of Energy Resources, the Department of
23 Environmental Protection and Conservation and the Department
24 of Parks and Forestry; and making editorial changes.

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

27 Section 1. Section 201 of the act of April 9, 1929 (P.L.177,
28 No.175), known as The Administrative Code of 1929, amended

1 December 30, 1984 (P.L.1299, No.245) and repealed in part May
2 26, 1988 (P.L.414, No.72), 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, Office of Attorney General,
12 Department of Corrections, 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], the Department of
20 [Environmental] Energy Resources, the Department of
21 Environmental Protection and Conservation and the Department of
22 Parks and Forestry; and by the following independent
23 administrative boards and commissions: Pennsylvania Game
24 Commission, Pennsylvania Fish and Boat Commission, State Civil
25 Service Commission, Pennsylvania Public Utility Commission and
26 the Pennsylvania Securities Commission.

27 All of the provisions of this act, which apply generally to
28 administrative departments, or generally except to the
29 Department of the Auditor General, the Treasury Department and
30 the Office of Attorney General, shall apply to the Executive

1 Board and to the Pennsylvania State Police.

2 Section 2. As much as relates to the Department of
3 Environmental Resources in section 202 of the act, added
4 December 3, 1970 (P.L.834, No.275), is amended to read:

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

11 * * *

12 In the Department of Environmental [Resources] Protection and
13 Conservation,

14 Environmental Quality Board,

15 Environmental Hearing Board,

16 State Board for Certification of Sewage Treatment and

17 Waterworks Operators,

18 State Soil and Water Conservation Commission[,].

19 In the Department of Energy Resources,

20 Anthracite Mine Inspectors,

21 Bituminous Mine Inspectors.

22 * * *

23 Section 3. Section 203 of the act, amended December 3, 1970
24 (P.L.834, No.275), July 22, 1975 (P.L.75, No.45), June 20, 1978
25 (P.L.477, No.70), December 6, 1982 (P.L.774, No.223) and June
26 30, 1988 (P.L.475, No.80) and repealed in part July 2, 1993
27 (P.L.439, No.64), is amended to read:

28 Section 203. Advisory Boards and Commissions.--The following
29 advisory boards and commissions are placed in and made parts of
30 the respective administrative departments, as follows:

1 In the Department of Military Affairs,

2 State Military Reservation Commission[,

3 State Veterans' Commission];

4 In the Department of Environmental [Resources] Protection and

5 Conservation,

6 Citizens Advisory Council;

7 In the Department of Health,

8 Advisory Health Board;

9 In the Department of Labor and Industry,

10 Advisory Council on Affairs of the Handicapped,

11 Advisory Board on Problems of Older Workers,

12 Policy, Planning and Evaluation Advisory Committee;

13 In the Department of Public Welfare,

14 State Board of Public Welfare,

15 Advisory Committee for the Blind,

16 Advisory Committee for General and Special Hospitals,

17 Advisory Committee for Children and Youth,

18 Advisory Committee for Public Assistance,

19 Advisory Committee for Mental Health and Mental

20 Retardation.

21 Section 4. Section 206 of the act, amended December 30, 1984

22 (P.L.1299, No.245), is amended to read:

23 Section 206. Department Heads.--Each administrative
24 department shall have as its head an officer who shall, either
25 personally, by deputy, or by the duly authorized agent or
26 employe of the department, and subject at all times to the
27 provisions of this act, exercise the powers and perform the
28 duties by law vested in and imposed upon the department.

29 The following officers shall be the heads of the
30 administrative departments following their respective titles:

1 Secretary of the Commonwealth, of the Department of State;
2 Auditor General, of the Department of the Auditor General;
3 State Treasurer, of the Treasury Department;
4 Attorney General, of the Office of Attorney General;
5 Secretary of Education, of the Department of Education;
6 Adjutant General, of the Department of Military Affairs;
7 Insurance Commissioner, of the Insurance Department;
8 Secretary of Banking, of the Department of Banking;
9 Secretary of Agriculture, of the Department of Agriculture;
10 Secretary of Transportation, of the Department of
11 Transportation;
12 Secretary of Health, of the Department of Health;
13 Secretary of Labor and Industry, of the Department of Labor
14 and Industry;
15 Secretary of Aging, of the Department of Aging;
16 Secretary of Public Welfare, of the Department of Public
17 Welfare;
18 Secretary of Revenue, of the Department of Revenue;
19 Secretary of Commerce, of the Department of Commerce;
20 Secretary of Community Affairs, of the Department of
21 Community Affairs;
22 [Secretary of Environmental Resources, of the Department of
23 Environmental Resources;]
24 Secretary of Energy Resources, of the Department of Energy
25 Resources;
26 Secretary of Environmental Protection and Conservation, of
27 the Department of Environmental Protection and
28 Conservation;
29 Secretary of Parks and Forestry, of the Department of Parks
30 and Forestry;

1 Secretary of General Services, of the Department of General
2 Services;

3 Secretary of Corrections, of the Department of Corrections.

4 Section 5. Section 438 of the act, amended December 3, 1970
5 (P.L.834, No.275), is amended to read:

6 Section 438. Mine Inspectors.--There shall be as many
7 anthracite mine inspectors, and as many bituminous mine
8 inspectors, as may now or hereafter be provided by law. All such
9 mine inspectors shall be appointed, respectively, from among
10 persons holding valid certificates of qualification issued by
11 the Department of [Environmental] Energy Resources.

12 The manner of appointing mine inspectors, their
13 qualifications, and their terms of office, shall be as may now
14 or hereafter be provided by law.

15 Section 6. Section 448(f) and (p) of the act, amended or
16 added January 13, 1966 (1965 P.L.1300, No.517), and December 3,
17 1970 (P.L.834, No.275), are amended to read:

18 Section 448. Advisory Boards and Commissions.--The advisory
19 boards and commissions, within the several administrative
20 departments, shall be constituted as follows:

21 (f) The Advisory Health Board shall consist of the Secretary
22 of Health, or in his place his duly authorized deputy, the
23 Secretary of Environmental Protection and Conservation, and
24 twelve members, five of whom shall be physicians licensed to
25 practice medicine or osteopathy in Pennsylvania, one a dentist
26 licensed to practice dentistry in Pennsylvania, one a pharmacist
27 registered with the State Board of Pharmacy, one a registered
28 nurse licensed by the State Board of Nurse Examiners, and one an
29 engineer registered with the State Registration Board for
30 Professional Engineers who is experienced in sanitary

1 engineering. The Secretary of Health, or in his place his duly
2 authorized deputy, shall be chairman of the board.

3 The term of office of each appointed member of the board
4 shall be four years, measured from the third Tuesday of January
5 of the year in which he takes office, or until his successor has
6 been appointed and has qualified; except that in the initial
7 appointment of the members of the board, one member shall be
8 appointed for a term of one year, three members for a term of
9 two years, three members for a term of three years, and three
10 members for a term of four years.

11 Six members of the board, together with the Secretary of
12 Health, or in his place his duly authorized deputy, shall
13 constitute a quorum.

14 Each appointed member of the board shall receive actual
15 traveling expenses and per diem compensation at the rate of
16 \$25.00 a day for time actually devoted to the business of the
17 board.

18 * * *

19 (p) The Citizens Advisory Council shall consist of the
20 Secretary of [Environmental Resources] Energy Resources, the
21 Secretary of Environmental Protection and Conservation and the
22 Secretary of Parks and Forestry, six members who shall be
23 appointed by the Governor, no more than three of whom shall be
24 of the same political party, six members who shall be appointed
25 by the President Pro Tempore of the Senate, no more than three
26 of whom shall be of the same political party, and six members
27 who shall be appointed by the Speaker of the House of
28 Representatives, no more than three of whom shall be of the same
29 political party. The appointed members of the council shall be
30 citizens of the State, who, during their respective terms, shall

1 hold no other State office to which any salary is attached
2 except that of membership on the Environmental Quality Board.

3 The term of office of each appointed member shall be three
4 years, measured from the third Tuesday of January of the year in
5 which he takes office, or until his successor has been
6 appointed; except that in the initial appointments of the
7 members of the council, the respective appointing authorities
8 shall appoint two members for terms of one year each, two
9 members for terms of two years each, and two members for terms
10 of three years each.

11 The Citizens Advisory Council shall include persons
12 knowledgeable in fields related to the work of the Department of
13 [Environmental Resources] Energy Resources, the Department of
14 Environmental Protection and Conservation and the Department of
15 Parks and Forestry such as, but not limited to, ecology,
16 limnology, toxicology, pharmacology, organiculture, and
17 industrial technology.

18 The council shall annually elect one of its appointed members
19 as chairman and shall elect a secretary who need not be a member
20 of the council. Meetings of the council shall be held at least
21 quarterly or at the call of the chairman.

22 The council shall have power to employ and fix the
23 compensation of such experts, stenographers, and assistants as
24 may be deemed necessary to carry out the work of the council,
25 but due diligence shall be exercised by the council to enlist
26 such voluntary assistance as may be available from citizens,
27 research organizations, and other agencies in Pennsylvania or
28 elsewhere, generally recognized as qualified to aid the council.

29 Section 7. Section 471 of the act, amended November 1, 1979
30 (P.L.251, No.83), is amended to read:

1 Section 471. Environmental Quality Board.--The Environmental
2 Quality Board shall consist of the Secretary of [Environmental]
3 Energy Resources, who shall be chairman thereof, the Secretary
4 of Health, the Secretary of Commerce, the Secretary of
5 Transportation, the Secretary of Agriculture, the Secretary of
6 Environmental Protection and Conservation, the Secretary of
7 Parks and Forestry, the Secretary of Labor and Industry, the
8 Secretary of Community Affairs, the Executive Director of the
9 Fish and Boat Commission, the Executive Director of the Game
10 Commission, the Chairman of the Public Utilities Commission, the
11 Executive Director of the State Planning Board, the Executive
12 Director of the Pennsylvania Historical and Museum Commission,
13 five members of the Citizens Advisory Council, and four members
14 of the General Assembly. The Citizens Advisory Council members
15 shall be designated by, and serve at the pleasure of, the
16 Citizens Advisory Council. One of the General Assembly members
17 shall be designated by, and serve at the pleasure of, the
18 President Pro Tempore of the Senate, one by the Minority Leader
19 of the Senate, one by the Speaker of the House of
20 Representatives and one by the Minority Leader of the House of
21 Representatives. In addition to the heads of the various
22 departments as elsewhere in this act provided, the other members
23 of the board may have named alternates to serve in their stead,
24 the alternates for the members of the board from the Citizens
25 Advisory Council to be selected by that council from members of
26 the council and each other alternate to be selected by that
27 particular member of the board in whose stead he is to serve. No
28 person will serve as alternate for more than one board member.

29 Eight members of the board shall constitute a quorum.

30 Section 8. Sections 473 and 474 of the act, added December

1 3, 1970 (P.L.834, No.275), are amended to read:

2 Section 473. State Board for Certification of Sewage
3 Treatment Plant and Waterworks Operators.--The State Board for
4 Certification of Sewage Treatment Plant and Waterworks Operators
5 shall consist of the Secretary of Environmental [Resources]
6 Protection and Conservation, or his representative, and five
7 additional members to be appointed by the Governor.

8 One member shall be an employe of a municipality or
9 municipality authority which operates a sewage treatment plant,
10 water treatment plant or water distribution system or a
11 representative of a State association of municipalities or
12 municipality authorities.

13 One member shall be an individual qualified under this act to
14 operate any water treatment plant.

15 One member shall be the owner or official of a privately
16 owned waterworks.

17 One member shall be an individual qualified under this act to
18 operate any sewage treatment plant.

19 One member shall be on the teaching staff of the civil or
20 sanitary engineering department of an accredited Pennsylvania
21 university or college.

22 The original appointed members of the board, in the order
23 listed above, shall hold office for one, two, three and four
24 years respectively. Thereafter, each appointment shall be for a
25 period of four years duration. The Governor may reappoint board
26 members for successive terms. Members of the board shall remain
27 in office until a successor is appointed and qualified. If
28 vacancies occur prior to completion of a term the Governor shall
29 appoint another member in accordance with this section to fill
30 the unexpired term.

1 The present members of the board shall continue to be members
2 subject to the other provisions of this section except that the
3 Secretary of Environmental [Resources] Protection and
4 Conservation shall replace the Secretary of Health. A chairman
5 and secretary of the board shall be elected annually. Four
6 members of the board shall constitute a quorum. Meetings may be
7 called by the chairman as needed to conduct the business of the
8 board.

9 The members of the board shall receive no compensation for
10 their service but shall be reimbursed for actual and necessary
11 expenses incurred in the performance of their duties.

12 Section 474. State Soil Conservation Commission.--The State
13 Soil Conservation Commission shall consist of the Secretary of
14 Environmental [Resources] Protection and Conservation, who shall
15 be the chairman, the Secretary of Agriculture, the Dean of the
16 College of Agriculture of The Pennsylvania State University, and
17 four farmer members, who shall be farmers, to be appointed by
18 the Governor from a list of eight nominees submitted by the
19 association known as "Pennsylvania State Council of Farm
20 Organizations." Two urban members of the commission shall also
21 be appointed to the commission by the Governor. In the event,
22 however, that said association shall fail to make and submit to
23 the Governor, nominations to fill vacancies, the Governor may
24 appoint any citizens of Pennsylvania to fill such vacancies. The
25 State Conservationist of the Soil Conservation Service, United
26 States Department of Agriculture and the Director of Agriculture
27 and Home Economics Extension of The Pennsylvania State
28 University shall be associate, nonvoting members of the
29 commission. The commission shall keep a record of its official
30 actions, and may perform such acts and promulgate such rules and

1 regulations as may be necessary, and employ such personnel as
2 needed for the execution of its function under this act. A
3 majority of the voting members shall constitute a quorum and all
4 decisions of the commission shall require a concurrence of the
5 voting members of the commission.

6 The farmer and urban members of the commission shall be
7 appointed for a period of four years and shall hold office until
8 their successors have been appointed and have qualified. The
9 four farmer members' terms shall be so staggered that one
10 member's term shall expire each year while the two urban
11 members' terms shall be so staggered that one member's term
12 shall expire every second year. At the expiration of their terms
13 of office, or in the event of vacancies through death,
14 resignation or otherwise, new farmer or urban members shall be
15 appointed in the manner set forth in paragraph one of this
16 section. A majority of the commission shall constitute a quorum
17 and all decisions shall require the concurrence of a majority of
18 the commission. All members of the commission shall be entitled
19 to their actual and necessary expenses including traveling
20 expenses incurred in the discharge of their duties. The
21 commission shall provide for the execution of surety bonds for
22 all employes and officers who shall be entrusted with funds or
23 property of the commission and shall provide for the keeping of
24 a full and accurate record of all proceedings and of all
25 resolutions, regulations and orders issued or adopted.

26 Section 9. Section 475 of the act, amended July 9, 1976
27 (P.L.980, No.197), is amended to read:

28 Section 475. Navigation Commission for the Delaware River
29 and its Navigable Tributaries.--(a) The Navigation Commission
30 for the Delaware River and its navigable tributaries shall

1 consist of nine members, four to be appointed by the Governor;
2 by and with the advice and consent of a majority of the members
3 of the Senate; two of whom shall be appointed from among the
4 residents of Delaware County; one of whom shall be appointed
5 from among residents of Bucks County; and one of whom shall be
6 appointed from among the residents of Philadelphia County; two
7 to be appointed by the Mayor of the City of Philadelphia; one to
8 be the Secretary of Environmental [Resources] Protection and
9 Conservation or his designee, who shall serve ex officio, one to
10 be the Secretary of Commerce or his designee, who shall be
11 chairman; and one of whom shall be the Director of Commerce of
12 the City of Philadelphia, who shall serve ex officio. The
13 principal office of the commission shall be in the City of
14 Philadelphia.

15 (b) The members of the Navigation Commission for the
16 Delaware River and its navigable tributaries, hereinafter
17 referred to as the commissioners, shall be appointed initially,
18 two by the Governor and one by the Mayor for a term of two years
19 and two by the Governor and one by the Mayor for a term of four
20 years, and shall hold office for a term of four years
21 thereafter, and until their successors are appointed and
22 qualified, and may be eligible for reappointment to office. They
23 shall serve without compensation, but shall be reimbursed for
24 necessary expenses. A majority of the commissioners, appointed
25 by the Governor and the Mayor of the City of Philadelphia, shall
26 constitute a quorum for the transaction of business.

27 (c) The commission shall have a secretary, and such clerks
28 as may be necessary to keep accurate minutes and entries of all
29 orders, regulations, and transactions of the said commissioners,
30 in a book or books to be kept for that purpose; and the said

1 minutes and entries shall be submitted to the inspection of any
2 person or persons who shall desire to see and peruse the same;
3 and the said commissioners shall give true copies of all such
4 entries or minutes, made in the said book or books as may be
5 required, to such person or persons as shall demand the same, he
6 or they paying to the said commissioners one cent per line for
7 each copy thereof. The commissioners may also have, if the
8 Secretary of Commerce approve, a civil engineer, and such other
9 employes as are necessary to the proper transaction of the
10 business of the Navigation Commission for the Delaware River and
11 its navigable tributaries. The said commissioners shall have
12 authority to maintain adequate offices and a meeting room.

13 The Secretary of Commerce shall appoint the secretary and all
14 employes of the commission, whose salaries shall be fixed as
15 provided by law.

16 Section 10. Section 514(a) and 712(b) of the act, amended
17 December 3, 1970 (P.L.834, No.275), are amended to read:

18 Section 514. Sale of Real Estate and Grants of Rights of Way
19 or Other Rights Over or in Real Estate; Tapping Water Lines of
20 Institutions and Sanatoria.--(a) Except as otherwise in this
21 act expressly provided, a department, board, or commission,
22 shall not sell or exchange any real estate belonging to the
23 Commonwealth, or grant any easement, right of way, or other
24 interest over or in such real estate, without specific authority
25 from the General Assembly so to do, but a department, board, or
26 commission may, with the approval of the Governor, grant a
27 license to any public service corporation to place upon, in, or
28 over, any dry or submerged land or bridge of or maintained by
29 the Commonwealth, any public service line, if such line will
30 enable any State building or State institution to receive better

1 service, or if such line is necessary for the service of the
2 public and it is necessary or reasonably required to cross the
3 Commonwealth's land to afford such service or if the running of
4 such line over a bridge will be more economical than the
5 erection of a separate bridge for the line. Every such license
6 shall be revocable for reasonable cause upon six months' written
7 notice by the Commonwealth, and also after like notice for
8 violation of such proper terms and conditions as the department,
9 board, or commission, with the approval of the Governor, shall
10 prescribe when the license issues. Unless any such line is
11 primarily for the benefit of a State building or State
12 institution, the license shall provide for the payment to the
13 Commonwealth of compensation for the use of its property in such
14 amount as the department, board, or commission granting it
15 shall, with the approval of the Governor, prescribe.

16 But nothing herein contained shall authorize the Commonwealth
17 to impose and collect from any municipality or township any
18 compensation for a license granted to such municipality or
19 township for the running of a public service line over any such
20 bridge.

21 This section shall be deemed the exclusive system for the
22 granting of licenses, consents and permits to place public
23 service lines upon, in or over any dry or submerged lands of the
24 Commonwealth. In the case of submerged lands such licenses shall
25 be granted only by the Department of Environmental [Resources]
26 Protection and Conservation, and the permit shall prescribe such
27 terms and conditions as shall be deemed necessary by the board
28 to protect the interests of the public. In the case of dry
29 lands, licenses shall be issued by the department, board or
30 commission having the management of such lands.

1 * * *

2 Section 712. The Pennsylvania State Police Force.--The
3 various members of the Pennsylvania State Police are hereby
4 authorized and empowered:

5 * * *

6 (b) To act as game protectors, and as forest, fish, or fire
7 wardens, and for the better performance of such duties,

8 (1) Seize all guns, boats, decoys, traps, dogs, game, fish,
9 shooting paraphernalia, or hunting or fishing appliances or
10 devices, used, taken, or had in possession, contrary to the laws
11 of this State. Any article so seized shall be held subject to
12 such disposition as the Executive Director of the Pennsylvania
13 Fish and Boat Commission or the Executive Director of the
14 Pennsylvania Game Commission or the Secretary of [Environmental
15 Resources] Parks and Forestry may respectively determine.

16 (2) Seize and take possession of all birds, animals, or
17 fish, which have been taken, caught or killed, or had in
18 possession, or under control, or which have been shipped, or are
19 about to be shipped, contrary to any law of this State.

20 (3) Search without warrant any boat, conveyance, vehicle or
21 receptacle, when there is good reason to believe that any law
22 has been violated, the enforcement or administration of which is
23 imposed on or vested in the Pennsylvania Fish and Boat
24 Commission or the Pennsylvania Game Commission or in the
25 Department of Environmental [Resources] Protection and
26 Conservation.

27 (4) Serve subpoenas issued before any examination,
28 investigation, or trial had pursuant to any law as aforesaid.

29 (5) Purchase game or fish for the purpose of securing
30 evidence.

1 Section 11. This act shall take effect in one year.