

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1415 Session of  
2005

INTRODUCED BY FRANKEL, BEBKO-JONES, BELARDI, BELFANTI, BISHOP,  
CALTAGIRONE, CAWLEY, COHEN, COSTA, DeLUCA, DeWEESE, FABRIZIO,  
FREEMAN, GEORGE, GOODMAN, GRUCELA, HARPER, JOSEPHS,  
W. KELLER, LEACH, LEDERER, LEVDANSKY, McCALL, PALLONE,  
PETRARCA, PISTELLA, READSHAW, SHANER, SOLOBAY, STABACK,  
STURLA, SURRA, TANGRETTI, THOMAS, TIGUE, VITALI, WALKO,  
WHEATLEY AND YOUNGBLOOD, APRIL 20, 2005

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
APRIL 20, 2005

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 employees 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 employees of certain departments, boards and  
20 commissions shall be determined," establishing the Office of  
21 Environmental Advocate; and making editorial changes.

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

24 Section 1. The heading of Article IX-A of the act of April

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

ARTICLE IX-A

[OFFICE OF] CONSUMER ADVOCATE AND ENVIRONMENTAL ADVOCATE

Section 2. Section 902-A(a) of the act, added July 9, 1976 (P.L.903, No.161), is amended to read:

Section 902-A. Office of Consumer Advocate.--(a) There is hereby established within the [Department of Justice] Office of Attorney General an Office of Consumer Advocate to represent the interest of consumers before the Pennsylvania Public Utility Commission.

\* \* \*

Section 3. Section 904-A.1(c) of the act, added June 21, 1977 (P.L.19, No.15), is amended to read:

Section 904-A.1. Assessment Upon Public Utilities, Disposition, Appropriation and Disbursement of such Assessments.--\* \* \*

(c) The Pennsylvania Public Utility Commission shall thereafter complete the assessment procedure and collect the assessments as follows: each public utility within a group shall then be assessed for and shall pay to the Pennsylvania Public Utility Commission such proportion of the amount allocated to its group as the gross intrastate operating revenues of the public utility for the preceding calendar year bear to the total gross intrastate operating revenues of its group for that year, but for the fiscal year 1977-1978 every public utility shall be assessed for and shall pay to the commission such proportion of the total assessment as the gross intrastate operating revenues of the public utility for the preceding calendar year bear to the total gross intrastate operating revenues of all public

1 utilities that are assessed. The Pennsylvania Public Utility  
2 Commission shall give notice by registered or certified mail to  
3 each public utility of the amount lawfully charged against it  
4 under the provisions of this section, which amount shall be paid  
5 by the public utility within thirty (30) days of receipt of such  
6 notice, unless the commission specifies on the notices sent to  
7 all public utilities an installment plan of payment, in which  
8 case each public utility shall pay each installment on or before  
9 the date specified therefor by the commission. Within fifteen  
10 (15) days after receipt of such notice, the public utility  
11 against which such assessment has been made may file with the  
12 commission objections setting out in detail the grounds upon  
13 which the objector regards such assessment to be excessive,  
14 erroneous, unlawful or invalid. The commission, after notice to  
15 the objector, shall hold a hearing upon such objections. After  
16 such hearing, the commission shall record upon its minutes its  
17 findings on the objections and shall transmit to the objector,  
18 by registered or certified mail, notice of the amount, if any,  
19 charged against it in accordance with such findings, which  
20 amount, or any installment thereof, then due shall be paid by  
21 the objector within ten (10) days after receipt of notice of the  
22 findings of the commission with respect to such objections. If  
23 any payment prescribed by this subsection is not made as  
24 aforesaid, the commission may suspend or revoke certificates of  
25 public convenience, certify automobile registrations to the  
26 Secretary of Transportation for suspension or revocation or,  
27 through the [Department of Justice] Office of Attorney General,  
28 may institute an appropriate action at law for the amount  
29 lawfully assessed, together with any additional cost incurred by  
30 the commission or the [Department of Justice] Office of Attorney

1 General by virtue of such failure to pay.

2 \* \* \*

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

4 Section 905.1-A. Office of Environmental Advocate.--(a)  
5 There is established within the Office of Attorney General an  
6 Office of Environmental Advocate to represent the interests of  
7 citizens before the Department of Conservation and Natural  
8 Resources and the Department of Environmental Protection.

9 (b) The Environmental Advocate shall be an individual who,  
10 by reason of training, experience and attainment, is qualified  
11 to represent the environmental interests of the citizens of this  
12 Commonwealth. Compensation shall be set by the Executive Board.

13 (c) No individual who serves as Environmental Advocate may,  
14 while serving in the position, engage in any business, vocation,  
15 other employment, or have other interests, inconsistent with  
16 official responsibilities.

17 (d) An individual who is appointed to the position of  
18 Environmental Advocate may not seek election nor accept  
19 appointment to political office during tenure as Environmental  
20 Advocate and for a period of two years after the appointment is  
21 severed or terminated.

22 Section 905.2-A. Assistant Environmental Advocates;  
23 Employes.--The Environmental Advocate, with the approval of the  
24 Attorney General, shall appoint attorneys as assistant  
25 environmental advocates and additional clerical, technical and  
26 professional staff as appropriate and may contract for  
27 additional services as necessary for the performance of the  
28 function of environmental advocacy. The compensation of  
29 assistant environmental advocates and clerical, technical and  
30 professional staff shall be set by the Executive Board. No

1 assistant environmental advocate or other staff employe may,  
2 while serving, engage in any business, vocation, other  
3 employment, or have other interests, inconsistent with official  
4 responsibilities.

5 Section 905.3-A. Powers and Duties of Environmental  
6 Advocate.--The Environmental Advocate has the following powers  
7 and duties:

8 (1) To monitor Federal and Commonwealth regulatory actions  
9 which impact upon the environmental interests of citizens.

10 (2) To represent the environmental interests of citizens in  
11 an action before a Federal or State court or administrative  
12 agency. In making a decision to participate under this clause,  
13 the Environmental Advocate shall consider all of the following:

14 (i) Public interest.

15 (ii) Resources available.

16 (iii) Effect of the proceeding on the environmental  
17 interests of citizens.

18 Section 5. Sections 906-A and 907-A of the act, added July  
19 9, 1976 (P.L.903, No.161), are amended to read:

20 Section 906-A. Savings Provision; Construction.--(a)  
21 Nothing contained [herein] in this article shall in any way  
22 limit the right of any:

23 (1) consumer to bring a proceeding before either the  
24 commission or a court; or

25 (2) citizen to bring a proceeding before the Department of  
26 Conservation and Natural Resources, the Department of  
27 Environmental Protection, the Environmental Hearing Board or a  
28 court.

29 (b) Nothing contained [herein] in this article shall be  
30 construed to impair the statutory authority or responsibility of

1 the:

2 (1) commission to regulate public utilities in the public  
3 interest; or

4 (2) agencies referred to in subsection (a)(1) to discharge  
5 their statutory functions.

6 Section 907-A. Reports.--(a) The Consumer Advocate shall  
7 annually transmit to the Governor and the Attorney General and  
8 to the General Assembly and shall make available to the public  
9 an annual report on the conduct of the Office of Consumer  
10 Advocate. The Consumer Advocate shall make recommendations as  
11 may from time to time be necessary or desirable to protect the  
12 interest of consumers.

13 (b) The Environmental Advocate shall annually transmit to  
14 the Governor, the Attorney General and the General Assembly, and  
15 shall make available to the public, an annual report on the  
16 conduct of the Office of Environmental Advocate. The  
17 Environmental Advocate shall make recommendations as necessary  
18 or desirable to protect the environmental interest of citizens.

19 Section 6. This act shall take effect in 180 days.