

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 711

Session of
1979

INTRODUCED BY REED, GEESEY, CIMINI, KOWALYSHYN, DiCARLO, BORSKI,
BROWN, DeWEESE, COHEN, ZWIKL, STEIGHNER, CALTAGIRONE,
F. TAYLOR AND SCHWEDER, MARCH 13, 1979

REFERRED TO COMMITTEE ON APPROPRIATIONS, MARCH 13, 1979

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," providing for
26 postaudits of agencies receiving State aid and conferring
27 powers and imposing duties on the Department of the Auditor
28 General.

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

1 Section 1. Section 402, act of April 9, 1929 (P.L.343,
2 No.176), known as "The Fiscal Code," amended May 31, 1957
3 (P.L.237, No.115) and first paragraph amended March 18, 1971
4 (P.L.109, No.4), is amended to read:

5 Section 402. Audits of Affairs of Departments, Boards and
6 Commissions.--Except as may otherwise be provided by law it
7 shall be the duty of the Department of the Auditor General to
8 make all audits of transactions after their occurrence, which
9 may be necessary, in connection with the administration of the
10 financial affairs of the government of this Commonwealth, with
11 the exception of those of the Department of the Auditor General.
12 It shall be the duty of the Governor to cause such audits to be
13 made of the affairs of the Department of the Auditor General.

14 At least one audit shall be made each year of the affairs of
15 every department, board, and commission of the executive branch
16 of the government, and all collections made by departments,
17 boards, or commissions, and the accounts of every State
18 institution, shall be audited quarterly.

19 Special audits of the affairs of all departments, boards,
20 commissions, or officers, may be made whenever they may, in the
21 judgment of the Auditor General, appear necessary, and shall be
22 made whenever the Governor shall call upon the Auditor General
23 to make them.

24 Copies of all audits made by the Department of the Auditor
25 General shall be promptly submitted to the Governor.

26 If at any time the Department of the Auditor General shall
27 find that any department, board or commission receiving, or
28 entitled to receive, an appropriation of money payable out of
29 any fund in the State Treasury, or receiving, or entitled to
30 receive, any portion of any State tax for any purpose

1 whatsoever, has expended, or contracted or otherwise agreed for
2 the expenditure of the same, by any means whatsoever, for any
3 purpose other than that for which it was appropriated or
4 received, it shall forthwith notify the Governor and State
5 Treasurer, and shall have the right to commence any action at
6 law or equity to enjoin the expenditure or further expenditure
7 of said money and to cause such sums to be recovered and paid to
8 the State Treasurer.

9 Unless the Department of the Auditor General shall fail or
10 refuse to make annual, quarterly, or special audits, as
11 hereinabove required, it shall be unlawful for any other
12 administrative department, any independent administrative board
13 or commission, or any departmental administrative or advisory
14 board or commission, to expend any money appropriated to it by
15 the General Assembly for any audit of its affairs, or, in the
16 case of departments, of any boards or commissions connected with
17 them, except for the reimbursement of the General Fund for
18 audits made by the Department of the Auditor General as provided
19 by law, or for the payment of the compensation and expenses of
20 such auditors as are regularly employed as part of the
21 administrative staffs of such departments, boards, or
22 commissions, respectively.

23 Section 2. Section 403 of the act is amended to read:

24 Section 403. [Audits] Postaudits of Agencies Receiving State
25 Aid.--The Department of the Auditor General shall have the
26 power, and its duty shall be, to [audit] conduct postaudits of
27 the accounts and records of every person, association,
28 corporation, and public agency, receiving an appropriation of
29 money, payable out of any fund in the State Treasury, or
30 entitled to receive any portion of any State tax for any purpose

1 whatsoever, as far as may be necessary to satisfy the department
2 that the money received was expended or is being expended for no
3 purpose other than that for which it was paid. Copies of all
4 such audits shall be furnished to the Governor.

5 If at any time the department shall find that any money
6 received by any person, association, corporation, or public
7 agency, has been expended for any purpose other than that for
8 which it was paid, it shall forthwith notify the Governor, and
9 [shall decline to approve any further requisition for the
10 payment of any appropriation, or any further portion of any
11 State tax, to such person, association, corporation or public
12 agency, until an amount equal to that improperly expended shall
13 have been expended for the purpose for which the money
14 improperly expended was received from the State Treasury] the
15 State Treasurer, and shall have the right to disallow
16 expenditures made for purposes other than the purposes of the
17 appropriation or receipt of State taxes, and shall cause such
18 sums to be recovered and paid by such person, association,
19 corporation or public agency to the State Treasurer, through the
20 commencement by the department of any action at law or equity to
21 recover the same.

22 Section 3. Section 1406 of the act is amended by adding a
23 subsection to read:

24 Section 1406. Action to Recover Transfer Inheritance Taxes
25 and other Debts Due or Property Escheating to the
26 Commonwealth.--* * *

27 (d) Whenever the Department of the Auditor General shall
28 determine, in the performance of the duties imposed on the
29 department by sections 402 and 403, that an appropriation of
30 money payable out of any fund in the State Treasury, or any

1 portion of any State tax, has been expended, or that a contract
2 or other agreement has been made for the expenditure of the same
3 for any purpose other than that for which it was appropriated,
4 paid, or received, the Department of the Auditor General shall
5 have the power, and its duty shall be, to cause to be commenced,
6 in the name of the Commonwealth, in any court of the
7 Commonwealth having jurisdiction, any appropriate action at law
8 or equity to enjoin the expenditure, or further expenditure of
9 such sums, and to cause such sums to be recovered and paid to
10 the State Treasurer.

11 Section 4. This act shall take effect immediately.