

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1297 Session of 2008

INTRODUCED BY BROWNE, WOZNIAK, RAFFERTY, M. WHITE, FONTANA, WAUGH, TOMLINSON, C. WILLIAMS, FUMO, EARLL, BAKER, WONDERLING, MUSTO, COSTA, PIPPY, RHOADES, ARMSTRONG AND WASHINGTON, FEBRUARY 26, 2008

AS AMENDED ON THIRD CONSIDERATION, JUNE 2, 2008

AN ACT

1 Amending the act of April 9, 1929 (P.L.343, No.176), entitled,  
2 as amended, "An act relating to the finances of the State  
3 government; providing for the settlement, assessment,  
4 collection, and lien of taxes, bonus, and all other accounts  
5 due the Commonwealth, the collection and recovery of fees and  
6 other money or property due or belonging to the Commonwealth,  
7 or 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,  
17 authorizing the Commonwealth to issue tax anticipation notes  
18 to defray current expenses, implementing the provisions of  
19 section 7(a) of Article VIII of the Constitution of  
20 Pennsylvania authorizing and restricting the incurring of  
21 certain debt and imposing penalties; affecting every  
22 department, board, commission, and officer of the State  
23 government, every political subdivision of the State, and  
24 certain officers of such subdivisions, every person,  
25 association, and corporation required to pay, assess, or  
26 collect taxes, or to make returns or reports under the laws  
27 imposing taxes for State purposes, or to pay license fees or  
28 other moneys to the Commonwealth, or any agency thereof,  
29 every State depository and every debtor or creditor of the  
30 Commonwealth," further providing for the expiration of  
31 provisions relating to prudent investments; providing for  
32 audit of securities deposited with State Treasurer; IN

1 DISPOSITION OF ABANDONED AND UNCLAIMED PROPERTY, FURTHER  
2 PROVIDING FOR JUDICIAL ACTION UPON DETERMINATION; and making  
3 a related repeal.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Section 301.1(i) of the act of April 9, 1929  
7 (P.L.343, No.176), known as The Fiscal Code, amended November 9,  
8 2006 (P.L.1335, No.138), is amended to read:

9 Section 301.1. Investment of Moneys.--\* \* \*

10 (i) (1) Notwithstanding subsections (a) through (h), the  
11 Treasury Department shall have the exclusive management and full  
12 power to invest and reinvest the moneys of any fund as shall be  
13 accumulated beyond the ordinary needs of the various funds and  
14 which are not authorized by law to be invested by any board,  
15 commission or State officer, subject, however, to the exercise  
16 of that degree of judgment and care under the circumstances then  
17 prevailing which persons of prudence, discretion and  
18 intelligence who are familiar with such matters exercise in the  
19 management of their own affairs not in regard to speculation but  
20 in regard to the permanent disposition of the funds, considering  
21 the probable income to be derived therefrom as well as the  
22 probable safety of their capital. The Treasury Department shall  
23 have the power to hold, purchase, sell, assign, transfer and  
24 dispose of any securities, including equity securities and  
25 mutual funds consisting in whole or in part of equity  
26 securities, and investments in any such fund as well as the  
27 proceeds of such investments and of the money belonging to any  
28 such fund. The Treasury Department shall, through the Governor,  
29 submit to the General Assembly annually, at the same time the  
30 Treasury Department submits its budget covering administrative  
31 expenses, a report identifying the nature and amount of all

1 existing investments made pursuant to this section.

2 (2) The authority to invest or reinvest the moneys of any  
3 fund pursuant to this subsection shall expire [December 31,  
4 2008] December 31, 2010. The Treasury Department may maintain  
5 investments pursuant to this subsection which are in existence  
6 on the expiration date in this paragraph for not more than two  
7 years following such expiration date.

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

9 Section 409. Audit of Securities Deposited with State  
10 Treasurer.--(a) The Auditor General, through such agents as he  
11 may select, shall perform an annual audit of the bonds, stocks,  
12 mortgages, or other securities, which are deposited with the  
13 State Treasurer in whatever capacity, and shall audit the books  
14 in which a record is kept of such bonds, stocks, mortgages, or  
15 other securities; and, for this purpose, the Auditor General may  
16 employ such consultants, experts, accountants, or investigators  
17 as he may deem advisable. The audit may be conducted  
18 independently or as part of any other annual audit or audits  
19 conducted by the Auditor General.

20 (b) The State Treasurer shall, whenever demand is made upon  
21 him by the Auditor General, submit for the audit of the Auditor  
22 General, or his agents, all records in his possession relating  
23 to such bonds, stocks, mortgages, or other securities, including  
24 such records in the possession of any custodian or subcustodian  
25 engaged by him regarding such securities, and his failure so to  
26 do shall disqualify him from holding the office of State  
27 Treasurer.

28 SECTION 3. SECTION 1301.21 OF THE ACT, AMENDED JUNE 29, 2002 <—  
29 (P.L.614, NO.91), IS AMENDED TO READ:

30 SECTION 1301.21. JUDICIAL ACTION UPON DETERMINATIONS.--[ANY

1 PERSON AGGRIEVED BY A DECISION OF THE STATE TREASURER, OR AS TO  
2 WHOSE CLAIM THE STATE TREASURER HAS FAILED TO ACT WITHIN NINETY  
3 (90) DAYS AFTER THE FILING OF THE CLAIM, MAY COMMENCE AN ACTION  
4 IN THE COMMONWEALTH COURT TO ESTABLISH HIS CLAIM. THE PROCEEDING  
5 SHALL BE BROUGHT WITHIN THIRTY (30) DAYS AFTER THE DECISION OF  
6 THE STATE TREASURER OR WITHIN ONE HUNDRED TWENTY (120) DAYS FROM  
7 THE FILING OF THE CLAIM IF THE STATE TREASURER FAILS TO ACT. THE  
8 ACTION SHALL BE TRIED DE NOVO WITHOUT A JURY.] (A) ANY PERSON  
9 AGGRIEVED BY A DECISION OF THE STATE TREASURER MAY APPEAL TO THE  
10 COMMONWEALTH COURT. THE APPEAL SHALL BE FILED WITHIN THIRTY (30)  
11 DAYS AFTER THE DECISION OF THE STATE TREASURER. THE CASE SHALL  
12 BE HEARD IN COMMONWEALTH COURT'S APPELLATE JURISDICTION.

13 (B) ANY PERSON AS TO WHOSE CLAIM THE STATE TREASURER HAS  
14 FAILED TO TAKE ACTION WITHIN NINETY (90) DAYS AFTER THE FILING  
15 OF THE CLAIM, MAY COMMENCE AN ACTION IN THE COMMONWEALTH COURT  
16 TO ESTABLISH HIS CLAIM WITHIN ONE HUNDRED TWENTY (120) DAYS FROM  
17 THE FILING OF THE CLAIM. THE ACTION SHALL BE TRIED DE NOVO  
18 WITHOUT A JURY.

19 Section 3 4. Repeals are as follows: <—

20 (1) The General Assembly declares that the repeal under  
21 paragraph (2) is necessary to effectuate the addition of  
22 section 409 of the act.

23 (2) The act of May 21, 1923 (P.L.288, No.184), entitled  
24 "An act to better secure all bonds, stocks, mortgages, or  
25 other securities deposited with the State Treasurer, by  
26 providing for their inspection, examination, and  
27 verification, and the verification of the books, containing a  
28 record of such bonds, stocks, mortgages, or other securities,  
29 by the Auditor General or his agents," is repealed.

30 Section 4 5. This act shall take effect immediately. <—