

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1092 Session of 2011

INTRODUCED BY BARRAR, BOBACK, BRENNAN, CALTAGIRONE, CAUSER, COHEN, DeLUCA, EVERETT, FARRY, GABLER, GEIST, GEORGE, GIBBONS, GILLEN, GINGRICH, GOODMAN, HORNAMAN, JOHNSON, JOSEPHS, KOTIK, MARSICO, MILLARD, MILLER, MURPHY, MURT, O'NEILL, PASHINSKI, QUINN, REICHLEY, STEVENSON, J. TAYLOR AND VULAKOVICH, MARCH 17, 2011

REFERRED TO COMMITTEE ON VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS, MARCH 17, 2011

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," providing for the Office of
 21 Veteran Advocate; assigning duties to the Office of Attorney
 22 General; and authorizing an appropriation.

23 The General Assembly of the Commonwealth of Pennsylvania

24 hereby enacts as follows:

25 Section 1. The act of April 9, 1929 (P.L.177, No.175), known

1 as The Administrative Code of 1929, is amended by adding an
2 article to read:

3 ARTICLE IX-C

4 OFFICE OF VETERAN ADVOCATE

5 Section 901-C. Definitions.

6 The following words and phrases when used in this article
7 shall have the meanings given to them in this section unless the
8 context clearly indicates otherwise:

9 "Commission." The State Civil Service Commission.

10 "Local government entity." Any municipal unit of government
11 of the Commonwealth.

12 "Veteran." A person who is currently serving or who has
13 served and been honorably discharged from a branch of the
14 military, whether under the jurisdiction of the Federal or State
15 Government.

16 Section 902-C. Office of Veteran Advocate.

17 (a) Establishment.--The Office of Veteran Advocate is
18 established in the Office of Attorney General to represent the
19 interest of veterans before the commission and to review and
20 intervene in cases involving, but not limited to, any of the
21 provisions of the following:

22 (1) 51 Pa.C.S. (relating to military affairs).

23 (2) Section 303(a) of the act of March 4, 1971 (P.L.6,
24 No.2), known as the Tax Reform Code of 1971.

25 (b) Qualifications.--The Veteran Advocate shall be an
26 individual who is a veteran and who, by training, experience and
27 attainment, is qualified to represent the interest of veterans.
28 Compensation shall be set by the Executive Board.

29 (c) Other activities prohibited.--No individual who serves
30 as Veteran Advocate shall, while serving in that position,

1 engage in any business, vocation, other employment or have other
2 interests inconsistent with the official responsibilities under
3 this article, nor shall the Veteran Advocate seek or accept
4 employment nor render beneficial services for compensation with
5 any other entity.

6 (d) Limitation.--Any individual who is appointed to the
7 position of Veteran Advocate shall not seek election nor accept
8 appointment to any political office during the tenure as Veteran
9 Advocate and for a period of two years after the appointment is
10 served or terminated.

11 Section 903-C. Assistant veteran advocates and other employees.

12 The Veteran Advocate, with the approval of the Attorney
13 General, shall appoint attorneys as assistant veteran advocates
14 and additional clerical, technical and professional staff as may
15 be appropriate and may contract for additional services as shall
16 be necessary for the performance of the functions under this
17 article. The compensation of assistant veteran advocates and
18 such clerical, technical and professional staff shall be set by
19 the Executive Board. No assistant veteran advocate or other
20 staff employee shall, while serving in that position, engage in
21 any business, vocation, other employment or have other interests
22 inconsistent with the official responsibilities under this
23 article.

24 Section 904-C. Powers and duties.

25 (a) General rule.--In addition to any other authority
26 conferred under this article, the Veteran Advocate is authorized
27 and it shall be a duty, in carrying out responsibilities under
28 this article, to represent the interest of veterans as a party,
29 or otherwise participate for the purpose of representing an
30 interest of veterans, before the commission in any matter

1 properly before the commission, and before any court, agency or
2 local government entity initiating proceedings if, in the
3 judgment of the Veteran Advocate, such action may be necessary,
4 in connection with any matter involving regulation by the
5 commission, whether on appeal or otherwise initiated.

6 (b) Monitoring.--The Veteran Advocate may monitor all cases
7 before corresponding agencies of the United States, including
8 the United States Veterans Administration, which impact
9 interests of veterans of this Commonwealth and may formally
10 participate in those proceedings which warrant such
11 participation.

12 (c) Discretion.--The Veteran Advocate may exercise
13 discretion in determining the interests of veterans which will
14 be advocated in any particular proceeding and in determining
15 whether or not to participate in or initiate any particular
16 proceeding and, in so determining, shall consider the public
17 interest, the resources available and the substantiality of the
18 effect of the proceeding on the interest of veterans. The
19 Veteran Advocate may refrain from intervening when, in the
20 judgment of the Veteran Advocate, intervention is not necessary
21 to represent adequately the interest of veterans.

22 (d) Petition.--In addition to any other authority conferred
23 under this article, the Veteran Advocate is authorized to
24 represent an interest of veterans which is presented for
25 consideration upon petition in writing by a substantial number
26 of persons. The Veteran Advocate shall notify the principal
27 sponsors of the petition within a reasonable time after receipt
28 of the petition of the action taken or intended to be taken with
29 respect to the interest of veterans presented in the petition.
30 If the Veteran Advocate declines or is unable to represent the

1 interest, the sponsors shall be notified and provided with a
2 statement of the reasons for declining.

3 (e) Action.--Any action brought by the Veteran Advocate
4 before a court or an agency of this Commonwealth or a local
5 government entity shall be brought in the name of the Veteran
6 Advocate. The Veteran Advocate may name a veteran or group of
7 veterans in whose name the action may be brought or may join
8 with a veteran or group of veterans in bringing the action.

9 (f) Statement.--At the time the Veteran Advocate determines,
10 in accordance with applicable time limitations, to initiate,
11 intervene or otherwise participate in any commission, agency or
12 court proceeding, the Veteran Advocate shall issue publicly a
13 written statement, a copy of which shall be filed in the
14 proceeding in addition to any required entry of appearance,
15 stating concisely the specific interest of veterans to be
16 protected.

17 (g) Military leave.--The Veteran Advocate shall have the
18 authority to review military leave issues and veteran preference
19 issues arising at the State and local government levels.

20 Section 905-C. Duties of commission.

21 In dealing with any proposed action which may substantially
22 affect the interest of veterans, the commission shall:

23 (1) Notify the Veteran Advocate when notice of the
24 proposed action is given to the public or at a time fixed by
25 agreement between the Veteran Advocate and the commission in
26 a manner to assure the Veteran Advocate reasonable notice and
27 adequate time to determine whether to intervene in the
28 matter.

29 (2) Take action with due consideration to the interest
30 of veterans, consistent with its other statutory

1 responsibilities.

2 Section 906-C. Savings provision and construction.

3 Nothing contained under this article shall in any way limit
4 the right of any veteran to bring a proceeding before either the
5 commission or a court.

6 Section 907-C. Reports.

7 The Veteran Advocate shall annually transmit to the Governor,
8 the Attorney General and the General Assembly and shall make
9 available to the public an annual report on the conduct of the
10 Office of Veteran Advocate. The Veteran Advocate shall make
11 recommendations as may be necessary or desirable to protect the
12 interest of veterans.

13 Section 908-C. Appropriation.

14 The General Assembly shall appropriate to the Office of
15 Veteran Advocate the funding necessary to carry out the
16 provisions of this article.

17 Section 2. This act shall take effect July 1, 2011, or
18 immediately, whichever is later.