

the Commonwealth of certain of said funds; imposing powers and duties upon boards having the employment of public school employes; exempting annuities, allowances, returns, benefits, and rights from taxation and judicial process; and providing penalties, which was last amended by section one of the act, approved the twenty-fourth day of April, one thousand nine hundred and thirty-one (Pamphlet Laws, sixty-five), is hereby further amended to read as follows:

1. All present employes,—including employes in the Pennsylvania Institution for the Instruction of the Blind, Overbrook, Philadelphia, Pennsylvania; the Western Pennsylvania Institution for the Blind, Pittsburgh, Pennsylvania; the Pennsylvania Institution for the Deaf and Dumb, Mount Airy, Philadelphia, Pennsylvania; and the Western Pennsylvania Institution for the Instruction of the Deaf and Dumb, Wilkinsburg, Pennsylvania,—except those specifically excluded by paragraph three of this section, who, by written application to the Superintendent of Public Instruction, shall elect, before the first day of July, nineteen hundred and [thirty-two] *thirty-seven*, to be covered by the retirement system: Provided, That such employe shall, at the time of making such application, pay into the School Employes' Retirement Fund, to the credit of the employes' annuity savings account as provided for in paragraph number six of section eight of this act, an amount equal to what would have been at that date the [accumulated deductions] *contributions* from the salary of such employe had the election to be covered by the retirement system been made prior to the first day of July, nineteen hundred and nineteen.

Retirement
Association.

Time extended
for joining.

APPROVED—The 7th day of June, A. D. 1935.

GEORGE H. EARLE

No. 124

AN ACT

To variously amend the act, approved the ninth day of April, one thousand nine hundred and twenty-nine (Pamphlet Laws, three hundred forty-three), entitled "An act relating to the finances of the State government; providing for the settlement, assessment, collection, and lien of taxes, bonus, and all other accounts due the Commonwealth, the collection and recovery of fees and other money or property due or belonging to the Commonwealth, or any agency thereof, including escheated property and the proceeds of its sale, the custody and disbursement or other disposition of funds and securities belonging to or in the possession of the Commonwealth, and the settlement of claims against the Commonwealth, the resettlement of accounts and appeals to the courts, refunds of moneys erroneously paid to the Commonwealth, auditing the accounts of the Commonwealth, and all agencies thereof, of all public officers collecting moneys payable to the Commonwealth, or any agency thereof, and all receipts of

appropriations from the Commonwealth and imposing penalties; affecting every department, board, commission, and officer of the State government, every political subdivision of the State, and certain officers of such subdivisions, every person, association, and corporation required to pay, assess, or collect taxes, or to make returns or reports under the laws imposing taxes for State purposes, or to pay license fees or other moneys to the Commonwealth, or any agency thereof, every State depository and every debtor or creditor of the Commonwealth," as amended, further regulating refunds, further regulating the deposits of State moneys and the security therefor, and providing additional penalties for late filing of certain reports.

Section 301, act of April 9, 1929 (P. L. 343), as amended by act of June 3, 1933 (P. L. 1474), further amended.

Section 1. Be it enacted, &c., That section three hundred one of the act, approved the ninth day of April, one thousand nine hundred and twenty-nine (Pamphlet Laws, three hundred forty-three), entitled "An act relating to the finances of the State government; providing for the settlement, assessment, collection, and lien of taxes, bonus, and all other accounts due the Commonwealth, the collection and recovery of fees and other money or property due or belonging to the Commonwealth, or any agency thereof, including escheated property and the proceeds of its sale, the custody and disbursement or other disposition of funds and securities belonging to or in the possession of the Commonwealth, and the settlement of claims against the Commonwealth, the resettlement of accounts and appeals to the courts, refunds of moneys erroneously paid to the Commonwealth, auditing the accounts of the Commonwealth, and all agencies thereof, of all public officers collecting moneys payable to the Commonwealth, or any agency thereof, and all receipts of appropriations from the Commonwealth and imposing penalties; affecting every department, board, commission, and officer of the State government, every political subdivision of the State, and certain officers of such subdivisions, every person, association, and corporation required to pay, assess, or collect taxes, or to make returns or reports under the laws imposing taxes for State purposes, or to pay license fees or other moneys to the Commonwealth, or any agency thereof, every State depository and every debtor or creditor of the Commonwealth," as amended by the act, approved the third day of June, one thousand nine hundred and thirty-three (Pamphlet Laws, one thousand four hundred seventy-four), is hereby further amended to read as follows:

Section 301. Deposit of Moneys.—The Treasury Department shall deposit all moneys of the Commonwealth received by it, including moneys not belonging to the Commonwealth but of which the Treasury Department or the State Treasurer is custodian, in State depositories approved by the Board of Finance and Revenue.

The Treasury Department shall not, at any time have in all active depositories more than an aggregate of such total sum as the Board of Finance and Revenue shall,

by resolution, have prescribed, and shall not deposit in any one inactive depository an amount in excess of twenty-five per centum of its paid-in capital and surplus, nor in excess of five hundred thousand dollars: *Provided, however, That in the case of any particular depository, these limitations may be waived by the Board of Finance and Revenue, so as to permit the State Treasurer to deposit State moneys, not in excess of one million dollars, in any bank, banking institution, or trust company designated as an inactive depository.*

All departments, boards or commissions, having in their possession any moneys belonging to the Commonwealth, shall deposit them in State depositories approved by the Board of Finance and Revenue. In all such cases the depositing department, board or commission shall forthwith, upon opening the account, notify the Department of the Auditor General and the Treasury Department of the name of the depository and the nature of the funds to be deposited in the account.

Section 2. That sections five hundred three, five hundred five, and seventeen hundred two of said act, as amended by the act, approved the first day of June, one thousand nine hundred and thirty-one (Pamphlet Laws, three hundred eighteen), are hereby further amended to read as follows:

Sections 503,
505, and 1702
of said act,
amended by act
of June 1, 1931
(P. L. 318),
further amended.

Section 503. Refunds of State Taxes, License Fees, Et Cetera.—The Board of Finance and Revenue shall have the power, and its duty shall be,

(a) To hear and determine any petition for the refund of taxes, license fees, penalties, fines, bonus, or other moneys [alleged to have been] paid to the Commonwealth [as the result of an error of law or of fact, or of both law and fact] *and to which the Commonwealth is not rightfully or equitably entitled*, and, upon the allowance of any such petition, to refund such taxes, license fees, penalties, fines, bonus, or other moneys, out of any appropriation or appropriations made for the purpose, or to credit the account of the person, association, corporation, body politic, or public officer entitled to the refund. All such petitions must be filed with the board within two years of the payment [alleged to have been erroneously made] *of which refund is requested*, except

(1) *Where a petition for refund filed by a domestic or foreign corporation involves the valuation of its capital stock, or in case of a foreign corporation the valuation of its tangible property for bonus purposes, or where a petition for refund filed by a bank, title insurance or trust company involves the valuation of its shares of stock, such petition must be filed with the board within one year of the payment of which refund is requested.*

[(1.)] (2) When the estate upon which any transfer inheritance tax has been [erroneously] paid shall have consisted in whole or in part of a partnership, or other

interest of uncertain value, or shall have been involved in litigation, by reason whereof there shall have been an overvaluation of that portion of the estate on which the tax has been assessed and paid, which overvaluation could not have been ascertained within said period of two years. In such case, the application for repayment shall be made to the Board of Finance and Revenue, within one year from the termination of such litigation, or ascertainment of such overvaluation.

[(2)] (3) When a court of record has adjudged a person to be legally dead, and thereafter, in the settlement of his or her estate, a transfer inheritance tax shall have been paid on such estate, and, after such payment has been made, such person shall reappear and the court shall rescind its order and adjudication. In such case, the petition to the board shall be filed within six months after the court shall have rescinded its order and adjudication.

[(3)] (4) When any tax or other money has been paid to the Commonwealth, under a provision of an act of Assembly subsequently held by the court of final jurisdiction to be unconstitutional, or under an interpretation of such provision subsequently held by such court to be erroneous. In such case, the petition to the board shall be filed within five years of the payment of which a refund is requested. *But the limitation of five years, herein prescribed, shall not be deemed to apply in the case of applications for refunds of taxes paid on liquid fuels by political subdivisions prior to the effective date of this amendment, where, by court decision, it has been held that the collection of such tax was erroneous and without authority of law, if application for such refunds shall be made within two years after the effective date of this amendment.*

(b) To hear and determine any petition for the remission of penalties imposed and paid for failure to file any tax or bonus report within the time specified by law. If the board be satisfied that the failure to file the report was not wilful, that the report was actually filed within forty-five days after it was due, and that the tax or bonus, exclusive of penalty, was paid to the Commonwealth within the time allowed by law for the payment thereof without interest, it may allow the petition and refund the amount of the penalty, or any part thereof, out of any appropriation or appropriations made for the purpose, or credit the account of the person, association, corporation, body politic, or public officer by whom or which the penalty was paid, but no such petition shall be considered unless it be filed within two years after the penalty was paid.

(c) To hear and determine petitions for the remission of penalties imposed but not paid for failure to file any tax or bonus report within the time specified by law.

If the board be satisfied that the failure to file the report was not wilful, that the report was actually filed within thirty days after it was due, and that the tax or bonus, exclusive of penalty, was paid to the Commonwealth within thirty days after the date when payment of the tax or bonus became due, it may strike off the penalty, or any part thereof, but no such petition shall be considered unless it be filed within two years after the penalty was imposed.

(d) All petitions filed under this section shall be in such form as the board shall prescribe.

(e) The action of the board on all petitions filed under this section shall be final.

Section 505. State Depositories.—The Board of Finance and Revenue shall have the power, and its duty shall be,

(a) To select and designate, as depositories for the State moneys, banks, banking institutions, or trust companies, which are subject to national or State supervision, and each of which,

1. Has made written application to the State Treasurer for a deposit of State moneys, designating the amount of deposit solicited, and accompanying its application by a written statement showing the amount of its capital actually paid in, the amount of its surplus, the number of its stockholders, and whether its stock is well distributed or largely held by a few individuals, and the length of time that said institution has been engaged in business under its charter. Each such statement shall be verified by the oath or affirmation of the president, cashier, or trust officer, as the case may be, and the State Treasurer shall present the same to the board for its consideration within thirty days after the receipt thereof.

2. Shall, upon the receipt of notice of its selection as a depository of State moneys, furnish a bond to secure payment of deposits and interest to the Commonwealth of Pennsylvania, with a proper warrant of attorney to confess judgment in favor of the Commonwealth, secured by a surety company or individual sureties to be approved by the board, in the amount of the deposit to be made. If a corporate bond be given, no one surety company shall be approved in an aggregate amount in excess of five times its capital surplus, and reserve, and, whenever individual sureties are presented for approval, they shall qualify in an aggregate over and above their individual liabilities to three times the amount of the deposit. No one person may qualify for more than one-fourth of the total amount of the bond required: Provided, That *when any deposit of State moneys is insured with the Federal Deposit Insurance Commissioner or any other corporation hereafter organized by the United States for the purpose of insuring deposits, such depository shall not be required to furnish bond or se-*

curity to cover the amount of such deposit so insured. And provided further, That, in lieu of the surety bonds of surety companies or of individuals as aforesaid, the deposit of State moneys may be secured by the deposit with the State Treasurer of bonds of the United States, bonds of the Delaware River Joint Commission, bonds of this Commonwealth, or any municipal subdivision or county thereof, [United States municipal or county bonds] to be approved by the board, in an amount measured by their actual market value equal to the amount of deposit so secured and twenty per centum in addition thereto. Said bonds shall be accompanied by proper assignment, or power of attorney to transfer the same, and said trust deposit of securities shall be maintained, on request, at the amount aforesaid, in case of any depreciation in the value thereof.

3. Shall agree to pay interest upon all State deposits, at the rate to be fixed every six months by the Board of Finance and Revenue, having due regard to the then prevailing money market. The said board may fix different rates of interest for active and inactive depositories, and may adopt and promulgate rules governing the time when interest shall begin to run on deposits of uncollected items. The board shall fix the specific day [of] on which any change in interest rate shall become effective, and shall notify, in writing, every depository of such change and the effective date thereof. Pending action by the board the interest rates heretofore fixed by law shall remain in force. All collections shall be made for the Commonwealth without cost or compensation.

(b) To select, as depositories for State funds, private banking institutions located and doing business in this Commonwealth, if such private banking institutions shall file a statement, in writing, with the board and the Department of Banking, agreeing that they will subject themselves to the same supervision in all respects, including an examination by the bank examiners of the Department of Banking at any time, as banks, banking institutions, or trust companies, which are depositories of State funds, and, if and after, compliance with the conditions required of any other depository.

(c) To designate two banks or trust companies in Dauphin County, two banks or trust companies in Allegheny County, two banks or trust companies in Philadelphia County, and three banks or trust companies in [other parts] any part of the Commonwealth, to be known as active depositories, in which shall be deposited a sufficient amount of the daily receipts of the State Treasury to transact the current business of the Commonwealth. The board may designate two other banks or trust companies, located anywhere in [any of the counties above mentioned, or in any other county of]

the Commonwealth, to be known as active depositories, and to be used for the purpose above mentioned.

(d) To see that no bank, banking institution, or trust company, except those designated as active depositories, shall receive a deposit of State moneys in excess of twenty-five per centum of its paid-in capital and surplus, or have, at any one time, an aggregate of deposits in excess of five hundred thousand dollars: *Provided, however, That, in the case of any particular depository, these limitations may be waived, by the Board of Finance and Revenue, so as to permit the State Treasurer to deposit State moneys not in excess of one million dollars in any bank, banking institution, or trust company, designated as an inactive depository.*

(e) To see that the combined deposits in the active depositories shall not exceed, at any time, such total sum as it shall, by resolution, have prescribed.

(f) In case it is of the opinion that the credit of any depository is impaired, the safety of the State deposits imperiled, or, for any other cause whatsoever, to require the State Treasurer to reduce, change, or wholly withdraw, within thirty days, any deposit or deposits held by any such depository of State moneys.

(g) Whenever it is considering applications for State deposits, to invite the Secretary of Banking to sit with and advise the board. The secretary shall, however, not vote on any question coming before the board.

Section 1702. Failure of Corporation, Association, Exchange, or Person to Make Bonus or Tax Reports on Time.—If any corporation, association, exchange, or person, or the officer or officers of any corporation, association, or exchange, shall neglect or refuse to furnish to the Department of Revenue, within the time prescribed by law, or any extension thereof granted by the Department of Revenue, any bonus or tax report required by section seven hundred six, seven hundred seven, seven hundred eight, seven hundred ten, seven hundred thirteen, *seven hundred fourteen, seven hundred sixteen,* or seven hundred twenty, of this act, it shall be the duty of the Department of Revenue to add to the bonus or tax of such corporation, association, exchange, or person, for each and every tax period for which such report was not so furnished, the following percentages, which shall be collected with the bonus or tax in the usual manner of settling and collecting such bonus or tax:

On the first one thousand dollars of bonus or tax, ten per centum; on the next four thousand dollars, five per centum; and on everything in excess of five thousand dollars, one per centum.

Section 3. It is the intention of the General Assembly that if this act cannot take effect in its entirety, because of the judgment of any court of competent jurisdiction holding unconstitutional any part or parts thereof, the

Constitutional
provision.

remaining provisions of the act shall be given full force and effect as completely as if the part or parts held unconstitutional had not been included herein.

When effective.

Section 4. This act shall become effective on the first day of June, one thousand nine hundred and thirty-five.

APPROVED—The 7th day of June, A. D. 1935.

GEORGE H. EARLE

No. 125

AN ACT

To amend section two hundred and fifty-four of the act, approved the second day of May, one thousand nine hundred and twenty-five (Pamphlet Laws, four hundred forty-eight), entitled "An act relating to fish; and amending, revising, consolidating, and changing the law relating to fish in the inland waters and the boundary lakes and boundary rivers of the Commonwealth," by authorizing the Board of Fish Commissioners to close streams, or parts thereof, for a certain period after stocking the same.

Preamble.

Whereas, Due to the fact that trout cannot be fed for several days prior to stocking streams with them, they fall easy prey to any bait immediately following such stocking; therefore

Section 254, act of May 2, 1925 (P. L. 448), amended.

Section 1. Be it enacted, &c., That section two hundred and fifty-four of the act, approved the second day of May, one thousand nine hundred and twenty-five (Pamphlet Laws, four hundred forty-eight), entitled "An act relating to fish; and amending, revising, consolidating, and changing the law relating to fish in the inland waters and the boundary lakes and boundary rivers of the Commonwealth," is hereby amended to read as follows:

Streams open to the public.

Section 254. Streams and Lakes to Be Free for Fishing; *Exception*.—Any natural stream or lake in this Commonwealth, which has been or may be stocked with fish furnished by the Commonwealth or the board, shall be open to the public for the purpose of lawful fishing, but nothing in this section shall be so construed as to free any person trespassing on the lands of any person in this Commonwealth from liability for any damage he may do to said lands or the improvement thereon or to any crops or livestock or poultry thereon.

Provision made for the closing of streams during stocking.

Notwithstanding the provisions of this section, whenever any stream is stocked with trout during the open season for trout, the Board of Fish Commissioners may close such stream, or any part thereof, to fishing for a period of five days after the same has been stocked. Whenever any stream, or part of a stream, is closed to fishing under the provisions of this section, the portion thereof that has been closed, shall be posted with signs giving notice of such closing, together with the date of