

No. 192

AN ACT

To amend section eleven of the act, approved the sixth day of June, one thousand eight hundred and ninety-three (Pamphlet Laws, three hundred thirty-five), entitled "An act to provide for the consolidation of boroughs and the government and regulation thereof," making further regulations for the election of justices of the peace in such consolidated boroughs.

Section 11, act
of June 6, 1893
(P. L. 335),
amended.

Section 1. Be it enacted, &c., That section eleven of the act, approved the sixth day of June, one thousand eight hundred and ninety-three (Pamphlet Laws, three hundred thirty-five), entitled "An act to provide for the consolidation of boroughs and the government and regulation thereof," is hereby amended to read as follows:

Section 11. Justices of the peace in office in each of such boroughs shall continue in office until the expiration of their respective commissions, and no election for justices of the peace shall be held in such borough until the number has been reduced [to two] by the expiration of the commissions of the persons in office *to two, and in case of consolidated boroughs lying in two counties, to one in either portion of the borough located entirely within the same county*, and thereafter there shall be two justices of the peace in such new borough, *and in the case of consolidated boroughs lying in two counties, one justice of the peace shall at all times be elected in each portion of the borough located entirely within the same county*, who shall have jurisdiction in the county of their election. *All justices of the peace in consolidated boroughs shall hold their offices for the term and be elected and qualified in the manner provided by law.*

APPROVED—The 20th day of May, A. D. 1937.

GEORGE H. EARLE

No. 193

AN ACT

Providing for the creation of a Board of Arbitration of Claims arising from contracts with the Commonwealth; providing for and regulating the procedure in prosecuting claims before such board; defining the powers of the board; and fixing the compensation of members and employes thereof; providing that the awards of such board shall be final; providing for the payment of awards; and authorizing an appropriation.

Board created to
arbitrate claims
against the Com-
monwealth.

Membership of
the board.

Section 1. Be it enacted, &c., That there is hereby created a Board of Arbitration of Claims against the Commonwealth arising from contracts entered into by the Commonwealth. Such board shall consist of three members appointed by the Governor, one of whom shall

be learned in the law and shall be chairman of the board, another of whom shall be a registered civil engineer. The third member of the board shall be a citizen and resident of the Commonwealth not learned in the law or an engineer. Two members of the board shall constitute a quorum. The members* shall be appointed for terms of two, four, and six years, and shall serve until their respective successors shall be duly appointed and qualified. Their successors shall each be appointed for a term of six years. In the event any member shall die or resign during his term of office, the Governor shall appoint a successor who shall hold office for such unexpired term. Each member of the board shall receive twenty dollars per diem for each day actually employed in his duty as a member of the board, and shall also be entitled to expenses while engaged in the performance of his official duties, which compensation and expenses shall be deemed costs of the proceedings hereunder.

Terms.

Salary.

Section 2. The Governor shall designate an employe of the Department of the Auditor General as secretary of the board. It shall be the duty of the secretary to keep a full and true record of all proceedings of the board, and all determinations, rulings, and decisions made by the board, and such secretary shall be the custodian of the records of the board as well as all pleadings, papers, books, maps, and schedules whatsoever filed with it, and he shall be responsible to the board for the same.

Secretary.

Duties of the secretary.

Under the direction of the board, the secretary shall have general charge of the office of the board and shall receive all pleadings filed with the board, and shall give notice of awards and rulings of the board, and prepare and cause to be served such notices as may be required by the board, and shall perform such other duties as the board may prescribe. Such secretary shall have power and authority to administer oaths in all proceedings by or before the board.

The board shall appoint a stenographer who shall take and transcribe testimony at the hearings of the board. Such stenographer shall be employed upon a per diem basis at such compensation as the board shall determine, which compensation shall be assessed by the board as part of the costs of the proceedings.

Except as otherwise specifically provided in this act, the board and its employes shall be subject to all the provisions of the Administrative Code of 1929, approved the ninth day of April, one thousand nine hundred twenty-nine (Pamphlet Laws, one hundred seventy-nine), its amendments and supplements.

Employes subject to the Administrative Code.

Section 3. The board shall adopt an official seal, which shall authenticate its proceedings.

Seal.

Section 4. (a) The Board of Arbitration shall have jurisdiction to hear and determine all claims against the

Powers of the board.

* "member" in the original.

Commonwealth, arising from contracts hereafter entered into with the Commonwealth, where the amount in controversy amounts to \$300.00 or more; (b) such jurisdiction shall also attach in cases arising from contracts heretofore entered into, where the claims, as herein provided, are presented before final payment under such contracts, and where the parties in such contracts heretofore entered into agree to submit the claim to the board under the terms of this act.

The award of the Board of Arbitration shall be final, and no appeal from such award to any court shall be allowed.

Section 5. The board shall hold hearings at the Capitol in Harrisburg, at such place and time as the board shall determine. When cases are at issue, as is herein after provided, the secretary of the board shall list such cases for hearing at the earliest available date, and shall cause to be served upon the claimants in such cases thirty days written notice, setting forth the time and place of such hearing.

Procedure to be followed by a claimant.

Section 6. No claim shall be entertained by the board, unless the claimant shall, within three months after the completion of the contract and before final payment is received on said contract, except as provided by section 4 (b) hereof, advise the department involved, in writing, of such claim, specifying the details thereof, and shall, within the same period, file with the secretary of the board a concise and specific written statement of this claim, signed and verified by the claimant before an officer authorized to administer oaths.

The claimant at the time of filing such statement shall file therewith two copies of said statement, and the secretary of the board shall forthwith deliver one copy to the secretary of the department involved and the other to the Attorney General.

At the time of filing his statement of claim, the claimant shall pay to the State Treasury, through the secretary of the board, the sum of \$25.00 as a filing fee. All fees so received shall be credited to the General Fund.

Within thirty days after such statement shall be filed with the secretary of the board, and served upon the secretary of the department involved and the Attorney General, the Commonwealth shall file with the secretary of the board an answer in writing to the averments of the claimant's statement, which shall be signed and verified by the secretary of the department involved, and shall, at the same time, file two copies of the same, one of which shall be served by the secretary on the Attorney General, and the other forwarded to the claimant.

When the answer of the Commonwealth is filed, the pleadings shall be complete and the case shall be deemed to be at issue, and the secretary of the board shall list

such case for hearing before the board at the earliest available date, but not earlier than thirty (30) days after the filing of such answer.

All cases shall, as far as practicable, be listed for hearing in the order of the date of the filing of the respective claims, and the secretary shall cause to be served upon all claimants by registered mail thirty (30) days' written notice, which notice shall set forth the time and place of such hearing.

Section 7. The secretary of the board shall have the power to issue subpoenas at the request of either the Commonwealth or the claimant, and to require the attendance of witnesses and the production of books, documents, and papers pertinent to any cause before the board.

Subpoenas.

All subpoenas so issued shall be in such form as shall be prescribed by the board, and shall be signed by the secretary, or such person as may be designated by the secretary, and may be served by any adult in any part of the Commonwealth.

Any person who refuses to obey such subpoena, or who refuses to be sworn to testify, or who fails to produce any papers, books or documents touching upon the case in which he is subpoenaed, or who is guilty of any contempt after summoned to appear, may be punished for contempt of court, and for this purpose an application may be made to the court of common pleas of Dauphin County, for which purpose such court is hereby given jurisdiction. Each witness so required to attend shall receive for each day's attendance the sum of two dollars (\$2.00), and in addition thereto, three cents (3c) for each mile circular travelled by the usual route from his home to the place where his presence is required, which witness fees and expenses shall be divided between the Commonwealth and the claimant in such proportion as the board may direct.

Section 8. All hearings before the board shall be public and shall be governed by such rules, not inconsistent with this act, as shall be adopted and prescribed by the board. After consideration of the pleadings filed with it and the testimony given at the hearing before it, the board shall either dismiss the claim of the claimant or make an award in favor of the claimant of such sum as it shall determine the claimant is legally and rightfully entitled to receive, and shall enter such award in a book to be kept by it for that purpose. It shall file a written opinion, setting forth the reasons for its action. The action of the board dismissing said claim or making an award shall be final and no appeal shall lie therefrom. The board in making such award shall have full power to dispose of all costs of the proceedings by providing for the payment thereof by the Commonwealth or by the

Hearings.

claimant, or by providing that such costs shall be shared by the parties in such proportions as the board shall direct.

Awards.

Section 9. Within thirty (30) days after any final award made by the board, the secretary of the board shall certify to the secretary of the department involved, under the seal of the board, a statement of such award, or in the event it shall dismiss the said claim, a statement of such costs that it may assess against the claimant. The amount of such award shall be paid by said secretary out of any funds appropriated against the contract out of which the claim upon which the award is based was originally charged, said award shall thereafter be paid to the claimant from the said fund or appropriation in the manner now provided by law. In the event that costs are assessed against the claimant, the amount of such costs shall be deducted from whatever balance may be due the claimant upon the contract out of which the claim arose.

Board to establish rules and regulations for its proceedings.

Section 10. The board shall establish such rules for its government, and regulations governing practice before it as it shall deem proper and necessary. All papers herein filed shall be matters of public record, and the public, subject to the reasonable requirements of the board, shall at all times have access thereto and shall be permitted to examine the same.

When effective.

Section 11. This act shall become effective immediately upon its approval by the Governor.

APPROVED—The 20th day of May, A. D. 1937.

GEORGE H. EARLE

No. 194

AN ACT

To amend section one thousand six hundred seven of the act, approved the eighteenth day of May, one thousand nine hundred and eleven (Pamphlet Laws, three hundred nine), entitled "An act to establish a public school system in the Commonwealth of Pennsylvania, together with the provisions by which it shall be administered, and prescribing penalties for the violation thereof; providing revenue to establish and maintain the same, and the method of collecting such revenue; and repealing all laws, general, special or local, or any parts thereof, that are or may be inconsistent therewith," as amended, providing for the furnishing of the National Flag Code to certain pupils, and for the use thereof.

Section 1607, act of May 18, 1911 (P. L. 309), as amended by section 37, act of May 29, 1931 (P. L. 243), further amended.

Section 1. Be it enacted, &c., That section one thousand six hundred seven of the act, approved the eighteenth day of May, one thousand nine hundred and eleven (Pamphlet Laws, three hundred nine), entitled "An act to establish a public school system in the Com-