

No. 1

AN ACT

SB 1125

Amending the act of June 4, 1943 (P.L.886), entitled, as amended, "An act creating a Municipal Employees' Retirement System for the payment of retirement allowances to officers and employes of political subdivisions and municipal authorities and of institutions supported and maintained by political subdivisions, and providing for the administration of the same by a board composed of certain state officers and others appointed by the Governor; imposing certain duties on the State Employees' Retirement Board and the actuary thereof; providing the procedure whereby political subdivisions and municipal authorities may join such system, and imposing certain liabilities and obligations on such political subdivisions and municipal authorities in connection therewith, and as to certain existing retirement and pension systems, and upon officers and employes of such political subdivisions; institutions supported and maintained by political subdivisions, and upon municipal authorities; providing certain exemptions from taxation, execution, attachment, levy and sale; and making an appropriation," making the Secretary of the Department of Community Affairs the Chairman of the Municipal Employment Retirement Board, changing duties of the board and transferring the Municipal Employees' Retirement System from the Department of State to the Department of Community Affairs.

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

Section 1. Section 3, act of June 4, 1943 (P.L.886), known as the "Municipal Employees' Retirement Law," amended April 3, 1968 (Act No. 32), is amended to read:

Section 3. Municipal Employees' Retirement Board.—A Municipal Employees' Retirement Board is hereby created which shall consist of the [Secretary of the Commonwealth] *Secretary of Community Affairs*, who shall be chairman thereof, the State Treasurer, [the Secretary of Community Affairs,] one member to represent the public, to be appointed by the Governor to serve until his successor is appointed and qualified, and two municipal employes who are employed by municipalities which have elected to join the retirement system established by this act, appointed by the Governor from among nominations made by various associations of county and municipal taxing officials organized under State law, each of which associations shall have power to nominate one employe. The municipal employe members of the board shall be appointed for terms of two years each, and until their successors have been appointed and qualified.

Vacancies happening from among municipal employe members shall be filled by the appointment of a successor for a full term of two years.

Each member of the board shall take an oath of office that he will diligently and honestly administer the affairs of the board, and that he will not knowingly violate or wilfully permit to be violated any of the provisions of this act.

[The secretary and the actuary of the State Employees' Retirement Board shall also be the secretary and actuary of the Municipal Employees'

Retirement Board, with such additional compensation as may be deemed appropriate by the Municipal Employees' Retirement Board.]

The [Secretary of the Commonwealth] *chairman* shall, *with the approval of a majority of the board*, appoint [such additional employes to the staff of employes of the State Employees' Retirement Board] *a director, an actuary and such employes* as may be deemed necessary to carry on the work required by this act and to fix the salary or compensation of such [additional] employes.

[It is the intent of this section that a unified personnel shall be provided for the administrative work of the State Employees' Retirement Board and the Municipal Employees' Retirement Board.]

Section 2. Clause (f) of section 4 of the act is amended to read:

Section 4. General Powers of Board.—The board shall—

* * *

(f) Prepare and publish annually a financial statement showing the condition of the fund and the various accounts thereof, and setting forth such other facts, recommendations and data as may be of use in the advancement of knowledge concerning the Municipal Employees' Retirement System, and furnish a copy thereof to each municipality which has joined the retirement system, and to such persons as may request copies thereof *and annually send to each member a statement showing his accumulated deductions and interest, and his deductions and interest for the preceding year;*

* * *

Section 3. Clause (i) of section 4 of the act is repealed.

Section 4. Sections 5 and 6 of the act are amended to read:

Section 5. Preliminary Actuarial Investigation Tables and Rates.—As soon as may be after the passage of this act, the actuary [of the State] *named by the chairman of the Municipal* Employees' Retirement Board shall make an investigation of the mortality service and salary experience of municipal employes as he shall deem necessary for the purpose of determining upon tentative tables and municipal contributions, in order that the retirement system contemplated by this act may be established. On the basis of such investigation and recommendation, the [State] *Municipal* Employees' Retirement Board shall adopt such tentative tables and certify such tentative rates for the purposes of giving municipalities and municipal employes estimates of the costs involved in electing to join the retirement system established by this act. Such tables may thereafter be accepted or be changed by the board, as experience may require.

Section 6. Information to Municipalities by [State] *Municipal* Employees' Retirement Board.—The [State] *Municipal* Employees' Retirement Board shall, with the aid of its actuary, prepare a circular of information relative to the retirement system established by this act, showing estimates of the costs thereof to municipalities and municipal employes, including costs of administration, the benefits to be derived therefrom, the methods of administration by the board and the

municipality, and such other information as may be deemed appropriate. Such circular of information shall be furnished to municipalities upon request.

The cost and expenses incident to such circular of information, including the compensation of the actuary in making the preliminary actuarial investigation required by the preceding section to be fixed by the [State] *Municipal* Employees' Retirement Board, shall be paid from the appropriation made by this act.

Section 5. Section 7 of the act, amended September 23, 1959 (P.L.946), is amended to read:

Section 7. Election by Municipalities to Join Retirement System.— Any municipality which has placed its employees in so far as they are eligible under the Federal Social Security Act, may elect, by ordinance or resolution adopted by the tax levying body, or in the case of municipal authorities by the board of such municipal authority, to join the retirement system established by this act. In the case of townships of the second class, no such resolution shall be adopted, except by unanimous vote of all three supervisors.

Any municipality, by action of its tax levying body may, and upon petition of electors equal to at least ten per centum of the registered electors of the municipality, shall, submit the question of joining such retirement system to the voters of the municipality at any municipal or general election, in the same manner as other questions are submitted to the electors under the Election Code of the Commonwealth. If the majority of the electors voting on the question vote in favor thereof, the tax levying body shall adopt an ordinance or resolution electing to join such system. If the electors vote against joining the system, then no further action shall be taken in the municipality for a period of two years.

A duly certified copy of any such ordinance or resolution electing to join the retirement system shall be filed with the [State] *Municipal* Employees' Retirement Board **[until the board created by this act has been established, and thereafter with the board created by this act]:** Provided, That no municipality shall be eligible for membership in such system until its employees have been placed under the Federal Social Security Act in so far as they are eligible.

Section 6. The second paragraph of section 16 of the act, amended August 24, 1963 (P.L.1142), is amended to read:

Section 16. Annual Estimates to Municipalities; Administrative Expenses.—* * *

The amounts paid by municipalities, on account of administrative expenses, shall be paid into the State Treasury and shall be credited to the current appropriation of the [State Employees' Retirement Board,] *Municipal Employees' Retirement Board* for the use and expenditure by the Municipal Employees' Retirement Board in administering the provisions of this act. Any balance of such municipal contributions, on account of

administrative expenses remaining unexpended at the end of a fiscal biennium, shall be credited to the appropriation to the **[State Employees' Retirement Board]** *Municipal Employees' Retirement Board* for the next fiscal biennium, and none of said municipal contributions shall be deemed to have lapsed.

* * *

Section 7. The personnel and the appropriations, records, supplies and equipment allocated within the Department of State for use by the Municipal Employees' Retirement System and the Municipal Police Retirement System shall be transferred to the Department of Community Affairs.

Section 8. The sum of twenty-five thousand dollars (\$25,000), or as much thereof as may be necessary, is hereby specifically appropriated to the Department of Community Affairs for the two fiscal years commencing July 1, 1969 and July 1, 1970, for the use of the Municipal Employees' Retirement Board toward the payment of costs and expenses incidental to the work of setting up the Municipal Employees' Retirement System and the Municipal Police Retirement System under the Department of Community Affairs, including the payment of the compensation of the actuary in performing the duties required by this act, the compensation of employes, and for postage, telephone, telegraph, supplies, painting and traveling and other incidental expenses.

Section 9. This act shall take effect immediately.

March 26, 1970

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 1125, Printer's No. 1494, entitled "An Act amending the act of June 4, 1943 (P.L.886), entitled, as amended, 'An act creating a Municipal Employees' Retirement System for the payment of retirement allowances to officers and employes of political subdivisions and municipal authorities and of institutions supported and maintained by political subdivisions, and providing for the administration of the same by a board composed of certain state officers and others appointed by the Governor; imposing certain duties on the State Employees' Retirement Board and the actuary thereof; providing the procedure whereby political subdivisions and municipal authorities may join such system, and imposing certain liabilities and obligations on such political subdivisions and municipal authorities in connection therewith, and as to certain existing retirement and pension systems, and upon officers and employes of such political subdivisions; institutions supported and maintained by political subdivisions, and upon municipal authorities; providing certain exemptions from taxation, execution, attachment, levy and sale; and making an appropriation,' making the Secretary of the Department of Community Affairs the Chairman of the Municipal

Employment Retirement Board, changing duties of the board and transferring the Municipal Employees' Retirement System from the Department of State to the Department of Community Affairs."

The primary purpose of this bill is to substitute the Secretary of the Department of Community Affairs as Chairman of the Municipal Employees' Retirement Board and to transfer the system from the Department of State to the Department of Community Affairs.

The bill would also appropriate the sum of \$25,000 or as much thereof as may be necessary to the Department of Community Affairs toward the payment of the cost and expenses incidental to the work of setting up the Municipal Employees' Retirement System and the Municipal Police Retirement System to the Department of Community Affairs.

Though I concur with the intent to bring the Municipal Employees' Retirement System closer to the constituents they service, I do not believe this is best accomplished by establishing a separate bureaucracy and the increased expense to the Commonwealth which would result from approval of this bill.

Last year I submitted a reorganization plan which would have transferred to Community Affairs some of the duties now performed by the Secretary of the Commonwealth with regard to the Municipal Employees' Retirement System. However, it would have retained the Secretary and actuary of the State Employees' Retirement Board to be the secretary and actuary of the Municipal Employees' Retirement Board. This I considered to be sound government. Yet my plan was defeated by the General Assembly.

It is reasonable to assume that Senate Bill 1125 as written will require the hiring of additional staff and providing increased space thus mandating future expenditures of funds in excess of the \$25,000 appropriation authorized by this bill but not provided for in the current fiscal year budget.

For these reasons the bill is not approved.

RAYMOND P. SHAFER

No. 2

AN ACT

HB 1337

Amending the act of April 9, 1929 (P.L.343), 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," implementing the provisions of Article VIII, section 10 of the Constitution of Pennsylvania by changing the audit and warrant procedures for the disbursement of money from the State Treasury; conferring powers and imposing duties on certain officers in connection therewith; and transferring positions, appropriations, allocations, contracts, agreements, equipment, files, obligations and other material from the Bureau of Disbursements in the Department of the Auditor General to the Treasury Department and making editorial changes.

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

Section 1. The first paragraph of section 2 and section 306, act of April 9, 1929 (P.L.343), known as "The Fiscal Code," are amended to read:

Section 2. General Scope of the Act.—This act is intended to define the powers and duties of the Department of Revenue, the Treasury Department, the Department of the Auditor General, the Secretary of the Commonwealth, the Board of Finance and Revenue, the Board of Fish Commissioners, the Board of Game Commissioners, *the Legislative Audit Advisory Commission*, county treasurers, registers of wills, mercantile appraisers, and other statutory agents, with respect to the collection of taxes and other moneys due the Commonwealth, the custody and disbursement or other disposition of all funds and securities belonging to or in the possession of the Commonwealth, and the settlement of claims against the Commonwealth.

* * *

Section 306. *Examination and Audit of Requisitions and Adjustment of Claims.*—The Treasury Department shall *examine and audit requisitions for money prior to disbursement thereof and the Treasury*

Department shall cooperate with the Department of Auditor General [in the examination and audit of requisitions for disbursements, and] in the examination and adjustment of claims against the Commonwealth, as hereinafter in this act provided.

Section 2. Section 307 of the act, amended July 2, 1953 (P.L.352), is amended to read:

Section 307. *Audits of and Warrants for Disbursements.—The Treasury Department shall carefully audit and examine all requisitions calling upon the State Treasurer to disburse any money out of any fund of the State Treasury and warrants shall be drawn by the State Treasurer only after his approval of the requisition.*

No money shall be paid from any of the funds of the State Treasury, except upon warrant of the [Auditor General] *State Treasurer* issued upon requisition pursuant to law, except [(1) moneys in the State Workmen's Insurance Fund, which may be disbursed by check of the State Treasurer upon requisition of the Secretary of Labor and Industry. [and (2) moneys in the Surplus Commodities Stamp Fund which may be disbursed by check of the State Treasurer upon requisition of the Secretary of Public Assistance.]

Section 3. The first paragraph of section 402 of the act, amended May 31, 1957 (P.L.237), is amended to read:

Section 402. Audits of Affairs of Departments, Boards and Commissions.—[It] *Except as may otherwise be provided by law it shall be the duty of the Department of the Auditor General to make all audits of transactions after their occurrence*, which may be necessary, in connection with the administration of the financial affairs of the government of this Commonwealth, with the exception of those of the Department of the Auditor General. It shall be the duty of the Governor to cause *such* audits to be made of the affairs of the Department of the Auditor General.

* * *

Section 4. Section 404 of the act is amended to read:

Section 404. [Audits of and Warrants for Disbursements.—The Department of the Auditor General shall carefully audit and examine all requisitions calling upon the Auditor General to draw his warrant upon the State Treasurer for the payment of any money out of any fund of the State Treasury, and warrants shall be drawn by the Auditor General, only after approval of the requisition by the State Treasurer or the Governor, as hereinafter provided.] *Officers Responsible for Audits.—No officer of this Commonwealth charged with the function of auditing transactions after their occurrence shall approve the same transactions prior to their occurrence. Notwithstanding any provision of any law to the contrary, from and after the effective date of this act, the Auditor General shall not be required or empowered to pre-approve or pre-audit any transaction with respect to which said officer is empowered or required to conduct an audit after the transaction has occurred.*

Section 5. The act is amended by adding a new article to read:

ARTICLE IV-A
LEGISLATIVE AUDIT ADVISORY COMMISSION

Section 401-A. Legislative Audit Advisory Commission.—(a) There shall be an independent advisory commission, to be known as the Legislative Audit Advisory Commission, which shall consist of eight members, two majority and two minority members of the House of Representatives appointed by the Speaker of the House of Representatives, and two majority and two minority members of the Senate appointed by the President Pro Tempore of the Senate. The commission shall organize annually by electing from among themselves a chairman and a secretary.

(b) The Legislative Audit Advisory Commission shall retain a certified public accountant who shall be designated the legislative auditor. His appointment shall be confirmed by a two-thirds vote of the members elected in each House, and he shall serve for a term of six years. The legislative auditor shall be ineligible for appointment or election to any other public office in this Commonwealth from which compensation is derived while serving as legislative auditor and for two years following the termination of his service. He may be removed for cause at any time by a two-thirds vote of the members elected in each House. The legislative auditor shall conduct performance audits of the several branches, departments, offices, boards, commissions, agencies, authorities and institutions of the Commonwealth, and shall report the result of such audits to the Legislative Audit Advisory Commission.

(c) The powers and duties of the commission shall be to:

(1) Examine the standards of audits performed under the provisions of section 10 of Article VIII, of the Constitution of Pennsylvania, and recommend measures for the improvement of pre-auditing and post-auditing of the financial affairs of the Commonwealth.

(2) Report annually to the General Assembly upon the activities of the commission, which report shall contain recommendations and suggested legislation, if any, for the improvement of auditing in the Commonwealth.

(3) Recommend from time to time special audits by the Auditor General.

(d) The Auditor General shall be the administrative officer of the Legislative Audit Advisory Commission, and he shall provide administrative services for and on behalf of the commission for the implementation of the commission's duties. The Auditor General shall include in his budget request such sums on behalf of the commission as it shall determine necessary to carry out its responsibilities as provided herein.

Section 6. Section 504 of the act, amended January 24, 1956 (P.L.943), is amended to read:

Section 504. Refund of Money Subject to Escheat Paid Into the State Treasury; Appeal.—The owner of any moneys which shall have been paid into the State Treasury by order of court, entered upon petition of the Attorney General alleging that such moneys were subject to escheat, or the legal representatives of such owner, may at any time apply to the Board of Finance and Revenue for a refund of the same, and, upon his making proof of his ownership or right of possession to the satisfaction of the board, such moneys shall be paid him, on the requisition of the board, and the warrant of **[the Auditor General drawn on]** the State Treasurer in conformity therewith, out of any moneys in the State Treasury appropriated for the purpose, and, if the money was originally on deposit as an interest bearing item, with interest thereon at the rate of two per centum per annum from the date when said moneys were paid into the State Treasury to the date of the refund thereof, and any moneys escheatable under the provisions of any act of Assembly, which have been heretofore voluntarily paid into the State Treasury, or which may be hereafter so paid, shall be likewise refunded in the same manner in which moneys so paid pursuant to an order of court are refunded under the provisions of this act. Any corporation or association, its successors or assigns, which shall have transmitted or delivered any shares or certificates of stock or other securities or the proceeds thereof, to the State Treasury, or which shall have paid any moneys into the State Treasury, either voluntarily or under the provisions of an order of court entered upon petition of the Attorney General asking for payment of such moneys or property into the State Treasury without escheat, may, at any time, apply to the Board of Finance and Revenue for a refund of the same, and upon making proof to the satisfaction of the board that such moneys or property were legally subject to escheat in any other state or territory of the United States and not legally subject to escheat by the Commonwealth of Pennsylvania or to payment into the State Treasury without escheat, such moneys or property, or the proceeds thereof, shall be paid to such claimant on the requisition of the board and the warrant of **[the Auditor General drawn on]** the State Treasurer in conformity therewith, out of any moneys in the State Treasury appropriated for the purpose, with interest thereon, if entitled thereto, at the rate of two per centum per annum from the date when said moneys were paid into the State Treasury to the date of the refund thereof, or if moneys so appropriated are inadequate or if no such appropriation has been made, the amount to be refunded, together with interest as aforesaid to the date of the allowance of the refund, shall be entered by the Department of Revenue as a credit to the account of the claimant. Such credit or any part thereof shall be assignable to any other person, firm, association, or corporation, and may be used by any such assignee in payment and satisfaction of any obligation or liability then or thereafter due by such assignee to the Commonwealth of Pennsylvania. The determination

by the board or the court in the event of an appeal, as hereinafter provided, whether such moneys or property were legally subject to escheat by the Commonwealth of Pennsylvania or to payment into the State Treasury without escheat, shall be made irrespective of whether said moneys or property were paid voluntarily, or pursuant to an order of court entered upon petition of the Attorney General asking for payment of such moneys or property into the State Treasury without escheat.

Any claimant for any such refund may appeal, by petition to the court of common pleas of Dauphin County, from an adverse decision of the Board of Finance and Revenue, which court shall thereupon hear such testimony as may be offered in support of the claim and determine whether or not the claimant is entitled to any refund, and, if so, the amount thereof. If the court find that he is so entitled, it shall report its findings to the board, and order the making of a refund of the proper amount. Thereupon the refund shall be made in the manner hereinbefore provided. No such appeal shall be entertained, however, unless the claimant shall file with his petition an affidavit that all the proof which he proposes to offer in support of his claim had been presented to the Board of Finance and Revenue before that board acted adversely upon his claim.

Any depository, or trustee, or other fiduciary, or any debtor who or which shall, through mistake or compulsion of law, pay the amount of any unclaimed deposit, trust fund, or debt, subject to escheat under the provisions of any act of the General Assembly, to the depositor or beneficiary thereof, or person to whom the debt is owing, after such amount shall have been paid into the State Treasury, either voluntarily or pursuant to an order of court, may make application for and obtain a refund thereof from the State Treasury in the manner and subject to the conditions hereinbefore in this section provided.

Section 7. Section 1501 of the act, amended August 21, 1953 (P.L.1331), is amended to read:

Section 1501. Requisitions.—No money shall be paid out of any fund in the State Treasury, except [(1)] the State Workmen's Insurance Fund, [and except (2) the Surplus Commodities Stamp Fund,] until a requisition therefor shall have been presented to or prepared by the [Auditor General] *State Treasurer*.

For money appropriated to the Governor or to the Executive Board, the Governor shall prepare requisitions and present them to the [Department of the Auditor General] *Treasury Department*.

For money appropriated to the Lieutenant Governor he shall prepare requisitions and present them to the [Department of the Auditor General] *Treasury Department*.

For money appropriated to administrative departments, or to independent administrative boards or commissions, the respective departments, boards, or commissions, shall prepare their requisitions, with the written approval of their respective comptrollers noted thereon, and present them to the [Department of the Auditor General] *Treasury Department*.

For money appropriated to departmental administrative boards or commissions, or advisory boards or commissions, such boards or commissions shall prepare requisitions, and forward them to the departments with which they are respectively connected. Such departments, if they approve the requisitions, shall so signify in writing, and shall transmit them to the **[Department of the Auditor General] Treasury Department**. No requisition of a departmental administrative board or commission, or of an advisory board or commission, shall be valid without the approval in writing of the head and the comptroller of the department with which such board or commission is connected.

For money appropriated to a person, association, corporation, or agency, not a part of the executive branch of the State Government, the person, association, corporation, or agency, to whom or to which the appropriation was made, shall prepare requisitions and present them to the **[Department of the Auditor General] Treasury Department**, but whenever, in any such case, any other act of Assembly requires the requisition to be approved by an administrative department of the State Government, other than the **[Department of the Auditor General] Treasury Department**, it shall be forwarded to the **[Department of the Auditor General] Treasury Department** through such other administrative department.

For money appropriated for a purpose, without designation of the expending agency, the **[Department of the Auditor General] Treasury Department** shall prepare requisitions.

Section 8. Section 1502 of the act is amended to read:

Section 1502. Audit of Requisitions and Issuance of Warrants.—All requisitions shall be audited by the **[Department of the Auditor General] Treasury Department**, and, if they appear to be lawful and correct, **[the department shall approve them and transmit them to the Treasury Department for examination and approval] the State Treasurer shall issue his warrant for the payment thereof**. Otherwise, they shall be returned to the source from which they came for revision, correction, or cancellation.

[If the Treasury Department shall approve a requisition, which has been approved by the Department of the Auditor General, it shall note its approval thereon in writing and return the same to the Department of the Auditor General. Thereupon the Auditor General shall draw his warrant upon the State Treasurer for the payment of the amount in which the requisition has been approved.

If on the other hand, the Treasury Department shall disapprove such requisition, in whole or in part, it shall note its disapproval in writing, together with its reasons for disapproval, and shall return the requisition to the Department of the Auditor General, and thereupon the Department of the Auditor General shall reconsider its approval.

If the Treasury Department shall have entirely disapproved of the

requisition, and, upon reconsideration, the Department of the Auditor General shall agree with such action, the requisition shall be returned to the source from which it came, together with a written statement from the Department of the Auditor General explaining why the requisition has been disapproved.

If the Treasury Department has approved a requisition in part only, and, upon reconsideration, the Department of the Auditor General shall agree with the Treasury Department that the requisition should be approved in part only, it shall modify its prior approval of the requisition, and the Auditor General shall issue his warrant on the State Treasurer for the amount in which both departments have approved the requisition.

If the Department of the Auditor General, upon reconsideration, shall be unable to agree with the views of the Treasury Department, it shall lay before the Governor the requisition, together with all the papers and correspondence attached or appertaining thereto, and the Governor shall decide the issue raised between the two departments. Should the Governor determine that the requisition ought to be approved in whole or in part, it shall be the duty of the Auditor General to issue his warrant in accordance with the directions of the Governor. Should the Governor determine that the requisition ought to be disapproved, the Department of the Auditor General shall, upon receiving it from the Governor, return it to the source from which it came, with a written statement of the reasons for which it was disapproved.]

After the payment thereof, the State Treasurer shall transmit the approved requisitions, together with evidence of payment thereof and all documents and records pertaining thereto, to the Auditor General for audit. The Auditor General shall retain the same and preserve such records as required by the act of April 9, 1929 (P.L.177), known as "The Administrative Code of 1929."

Section 9. Subsection (b) of section 1503 of the act, added June 6, 1939 (P.L.261), is amended to read:

Section 1503. Payments.—* * *

(b) All payments out of the several funds in the State Treasury appropriated for public assistance shall be made by check of a form prescribed and furnished by the Treasury Department, but filled in as to name of payee and amount by the Department of Public [Assistance] *Welfare*. As soon after the effective date of this act as practicable but not later than sixty (60) days after such date, the Department of Public [Assistance] *Welfare* shall requisition the Treasury Department for supplies of serially numbered blank checks upon which to prepare disbursements for public assistance grants, and shall give its receipt to the Treasury Department for such blank checks, provided the Department of Public [Assistance] *Welfare* shall thereupon enter the name and address of the payee and the amount of payment and such other information as shall be necessary, after which it shall prepare a requisition on the [Auditor

General] *State Treasurer* in the total amount of such checks, and **[the Auditor General shall issue his warrant on the Treasury Department in the same total amount. Upon receipt of this warrant,]** the Treasury Department shall *issue its warrant in the total amount thereof, and shall* sign and mail the checks to the payees designated thereon. This procedure shall be followed in Harrisburg and at such points outside the City of Harrisburg as the Governor shall determine.

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Section 10. Section 1504 of the act, amended June 28, 1947 (P.L.1006), is amended to read:

Section 1504. Advances Out of Appropriations.—Whenever an appropriation shall have been made to any department, board, or commission of the State government, or to the board of trustees or other agency in charge of any semi-State institution, which is intended for expenses of such a nature as to make it impracticable for such department, board, commission, board of trustees, or agency, to file with the **[Department of the Auditor General]** *Treasury Department* itemized receipts or vouchers prior to the payment of such expenses, upon requisition and warrant in the usual way, such department, board, commission, board of trustees, or other agency, may make requisition upon the **[Auditor General]** *State Treasurer* from time to time, for such sum or sums of the appropriation as may be necessary to meet such expenses, and the **[Auditor General]** *State Treasurer* shall draw his warrant **[upon the State Treasurer]** for such sum or sums, to be paid out of the appropriation. The total amount of requisitions for advancements from any appropriation less the total amount of properly itemized receipts or vouchers filed with the **[Auditor General]** *State Treasurer* accounting for such advancements shall never exceed an amount approved by the Governor nor shall it in any case exceed the amount of the bond of the officers or individuals having control of the disbursements from the funds advanced.

Requisitions for advances hereunder to any departmental administrative board or commission, must be approved by the department with which such board or commission is connected prior to the presentation thereof to the **[Auditor General]** *State Treasurer*.

Any department, board, commission, board of trustees, or agency, having received an advance hereunder shall,

(1) Whenever required by the **[Auditor General]** *State Treasurer* file specifically itemized vouchers, in such form as may be prescribed by him, accounting for all money expended out of such advance;

(2) At the end of the appropriation period, return to the State Treasury all unexpended balances of such advance, before any advance shall be made out of any succeeding appropriation or requisition, the **[Auditor General]** *State Treasurer* to credit the expiring appropriation, and charge the new appropriation with the exact amount of cash on hand at end of the period: Provided, That advances to local county boards of

assistance under the Public Assistance Law for reasonable emergency funds may be made before unexpended balances of advancements out of any previous appropriation are actually returned by such boards to the State Treasury;

(3) Deposit all moneys advanced, in the name of the Commonwealth, in a State depository, and certify the name thereof to the State Treasurer.

Section 11. All positions, appropriations, allocations, contracts, agreements, equipment, files, obligations, and other material which relate to the administration and enforcement of the laws of this Commonwealth as they relate to the Bureau of Disbursements in the Department of the Auditor General are hereby transferred to the Treasury Department with the same force and effect as if the appropriations had been made to the Treasury Department in the first instance, and said contracts, agreements, and obligations of the Bureau of Disbursements in the Department of the Auditor General had been incurred or entered into by said Treasury Department.

Section 12. This act shall take effect July 1, 1970.

July 9, 1970

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 1337, Printer's No. 3280, entitled "An act amending the act of April 9, 1929 (P.L.343), 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,' implementing the provisions of Article VIII, Section 10 of the Constitution of Pennsylvania by changing the audit and warrant procedures for the disbursement of

money from the State Treasury; conferring powers and imposing duties on certain officers in connection therewith; and transferring positions, appropriations, allocations, contracts, agreements, equipment, files, obligations and other material from the Bureau of Disbursements in the Department of the Auditor General to the Treasury Department and making editorial changes."

This bill purports to implement Article VIII, Section 10 of the Constitution of Pennsylvania which was amended by the Constitutional Convention and approved by the electorate in 1968 to provide that "Any Commonwealth officer whose approval is necessary for any transaction relative to the financial affairs of the Commonwealth shall not be charged with the function of auditing that transaction after its occurrence."

That amendment effectively abolished the pre-auditing or pre-approval authority of the Auditor General over requisition for the payment of state obligations as of midnight, June 30, 1970.

In the absence of any acceptable legislation to implement this constitutional change, it became my duty to determine and define the method whereby requisitions for the expenditure of state funds should be made. Accordingly, in the performance of my constitutional authority, I issued an Executive Order on June 30, 1970, directing and providing that all pre-auditing functions prior to the submission of warrants for payment to the Treasury Department be vested solely in the comptrollers of the individual state agencies, boards and commissions.

This Executive Order establishes for State Government a pre-auditing system similar to those used by the Federal Government, most states, and private business and industry. Fiscal experts consider this to be the most efficient and economical method of making pre-audits.

I am convinced that House Bill 1337, Printer's No. 3280, is objectionable and impractical for the four following major reasons:

First: Had the Constitutional Convention wished to continue the practice of duplicative pre-audits, that body could have assigned that responsibility to some agency of State Government, including the Treasury Department. On the contrary, the Convention clearly indicated its desire to abolish this wasteful practice by removing it from the Auditor General and not assigning it elsewhere.

Second: Comptrollers in the various departments and agencies of State Government are now performing pre-auditing and pre-approval functions. They would continue to do so even if House Bill 1337, Printer's No. 3280, should become law. Accordingly, the bill fails to respond to the intent of the Constitution which recognized the need for modernizing our financial system within State Government by perpetuating a duplication of efforts. Members of the General Assembly have complained of delay in payment of Commonwealth obligations caused by cumbersome procedures. My Order will help to eliminate these problems; whereas House Bill 1337 would probably not improve the situation.

Third: The procedures provided in my Executive Order of June 30, 1970, would result in a saving of approximately \$800,000 a year to the taxpayers of Pennsylvania whereas the provisions of House Bill 1337 completely ignore the need for establishing economy in the conduct of state government.

Fourth: It would frustrate the intent of the Constitution by giving the State Treasurer the power to pre-audit and pre-approve and at the same time to retain the responsibility to make payments of requisitions. These two functions are presently separate and should remain that way.

The State Treasurer has never been authorized to make pre-audits or pre-approve state expenditures for the obvious reason that such activities are inconsistent with the duties of that office. The provisions of Article VIII, Section 10 of the Constitution not only emphasize that inconsistency but absolutely prohibit it.

For these reasons the bill is not approved.

RAYMOND P. SHAFER

No. 3

AN ACT

HB 1360

Amending the act of April 12, 1951 (P.L.90), entitled "An act relating to alcoholic liquors, alcohol and malt and brewed beverages; amending, revising, consolidating and changing the laws relating thereto; regulating and restricting the manufacture, purchase, sale, possession, consumption, importation, transportation, furnishing, holding in bond, holding in storage, traffic in and use of alcoholic liquors, alcohol and malt and brewed beverages and the persons engaged or employed therein; defining the powers and duties of the Pennsylvania Liquor Control Board; providing for the establishment and operation of State liquor stores, for the payment of certain license fees to the respective municipalities and townships, for the abatement of certain nuisances and, in certain cases, for search and seizure without warrant; prescribing penalties and forfeitures; providing for local option, and repealing existing laws," implementing the provisions of Article VIII, section 10 of the Constitution of Pennsylvania by changing approval procedures for purchases of liquor and alcohol by the board and conferring powers and duties on the State Treasurer.

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

Section 1. Clause (a) of section 207, act of April 12, 1951 (P.L.90), known as the "Liquor Code," is amended to read:

Section 207. General Powers of Board.—Under this act, the board shall have the power and its duty shall be:

(a) To buy, import or have in its possession for sale, and sell liquor and alcohol in the manner set forth in this act: Provided, however, That all purchases shall be made subject to the approval of the [Auditor General] *State Treasurer*, or his designated deputy.

* * *

Section 2. This act shall take effect July 1, 1970.

July 9, 1970

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 1360, Printer's No. 3281, entitled "AN ACT amending the act of April 12, 1951 (P.L.90), entitled 'An act relating to alcoholic liquors, alcohol and malt and brewed beverages; amending, revising, consolidating and changing the laws relating thereto; regulating and restricting the manufacture, purchase, sale, possession, consumption, importation, transportation, furnishing, holding in bond, holding in storage, traffic in and use of alcoholic liquors, alcohol and malt and brewed beverages and the persons engaged or employed therein; defining the powers and duties of the Pennsylvania Liquor Control Board; providing for the establishment and operation of State liquor stores, for the payment of certain license fees to the respective municipalities and townships, for the abatement of certain nuisances and,

in certain cases, for search and seizure without warrant; prescribing penalties and forfeitures; providing for local option, and repealing existing laws,' implementing the provisions of Article VIII, section 10 of the Constitution of Pennsylvania by changing approval procedures for purchases of liquor and alcohol by the board and conferring powers and duties on the State Treasurer."

This bill would confer upon the State Treasurer, the authority previously vested in the Auditor General, to approve purchases made by the Pennsylvania Liquor Control Board. The said authority of the Auditor General was nullified on July 1, 1970, the effective date of Article VIII, Section 10 of the Constitution which provides that "Any Commonwealth officer whose approval is necessary for any transaction relative to the financial affairs of the Commonwealth shall not be charged with the function of auditing that transaction after its occurrence."

The State Treasurer has never been authorized to pre-approve state expenditures or purchases for the obvious reason that such powers are inconsistent with the duties of that office to make payments of requisitions. These two functions by their very nature should remain separate. The provisions of Article VIII, Section 10 of the Constitution not only emphasize that inconsistency but absolutely prohibit it.

I have this date vetoed House Bill No. 1337, Printer's No. 3280, which would have transferred all pre-audit authority previously vested in the Auditor General to the State Treasurer. In that veto, I pointed out that "It would frustrate the intent of the Constitution by giving the State Treasurer the power to pre-audit and pre-approve and at the same time to retain the responsibility to make payments of requisitions. These two functions are presently separate and should remain that way."

The above quoted language applies with equal force to House Bill 1360, Printer's No. 3281.

For these reasons the bill is not approved.

RAYMOND P. SHAFER

No. 4

AN ACT

HB 2160

Amending the act of March 10, 1970 (Act No. 66), entitled "An act imposing a special tax upon realty of public utilities; providing for distribution of moneys to local taxing authorities in lieu of local real estate taxes; conferring powers and imposing duties upon the Department of Revenue, local assessing and other officials, and public utilities; and providing penalties," exempting certain property from the tax.

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

Section 1. Subsection (b) of section 2, act of March 10, 1970 (Act No. 66), known as the "Public Utility Realty Tax Act," is amended to read:

Section 2. Definitions.—As used in this act

* * *

(b) "Public utility" means any person, partnership, association, corporation or other entity furnishing public utility service under the jurisdiction of the Pennsylvania Public Utility Commission or the corresponding regulatory agency of any other state or of the United States; and any electric cooperative corporation. [**], municipality or municipality authority furnishing public utility service.**]

* * *

Section 2. Section 3 of the act is amended by adding at the end thereof a new paragraph to read:

Section 3. Imposition of Tax; Report; Interest and Penalties.—* * *

This act shall be construed not to apply to municipalities or their authorities, and shall not impose a tax upon the real property of any municipality or authority owned or operated public utility or from any public utility service furnished by any municipality or authority thereof.

July 17, 1970

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 2160, Printer's No. 2889, entitled "An Act amending the act of March 10, 1970 (Act No. 66), entitled 'An act imposing a special tax upon realty of public utilities; providing for distribution of moneys to local taxing authorities in lieu of local real estate taxes; conferring powers and imposing duties upon the Department of Revenue, local assessing and other officials, and public utilities; and providing penalties,' exempting certain property from the tax."

This bill would remove from the scope of the "Public Utility Realty Tax Act" (Act No. 66 approved March 10, 1970) the real property of any

municipality or municipality authority furnishing public utility service.

This bill would indirectly discriminate against residents of municipalities wherein the public utility service was rendered by public utility corporations, and in favor of the residents of municipalities wherein the public utility service was rendered by the municipalities or municipality authorities. The impact of the tax under this bill would be lacking in uniformity as to all the residents of the Commonwealth, inasmuch as those municipalities having tax exempt public utility service would share in the proceeds of the taxes collected in all other municipalities.

This amendment would also result in a substantial loss of the revenue available to the Commonwealth for distribution to local taxing authorities.

For these reasons, the bill is not approved.

RAYMOND P. SHAFER

No. 5

AN ACT

HB 274

Authorizing actions against the Commonwealth of Pennsylvania under certain conditions.

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

Section 1. Any person sustaining bodily injury or death caused by the negligence or unlawful conduct of any employe of the Commonwealth of Pennsylvania, while the employe is acting within the scope of his office or employment, shall have the right to bring suit against the Commonwealth of Pennsylvania in accordance with the same rules of law as applied by the Courts of this Commonwealth against any other party defendant. In such suits the Commonwealth of Pennsylvania shall not plead governmental immunity as a defense.

Section 2. Nothing contained herein shall be construed to repeal or modify the Pennsylvania Workmen's Compensation Act.

July 24, 1970

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 274, Printer's No. 314, entitled "An Act authorizing actions against the Commonwealth of Pennsylvania under certain conditions."

This bill would waive the historic governmental immunity of the Commonwealth to suit for personal injuries. It would authorize actions against the Commonwealth by any person sustaining bodily injury or death when caused by the negligence or unlawful conduct of any employe of the Commonwealth while the employe is acting within the scope of his office or employment.

I do not disagree with the general proposition that the Commonwealth should be liable to suit in cases involving negligence of its employes. However, the present bill is defective in so many respects that it would create more problems than it would solve. Furthermore, no compelling necessity exists for its immediate enactment.

The language of the bill is so vague and indefinite as to make it impossible to determine its scope without considerable litigation to resolve its uncertainties. The delays caused by such litigation, and the cost to the Commonwealth resulting therefrom, are so unpredictable that these reasons alone would warrant my disapproval.

Under the bill the liability of the Commonwealth would extend to "unlawful conduct" of any employe of the Commonwealth "while the employe is acting within the scope of his office or employment". These

provisions are paradoxical — employees are not hired to perform unlawful acts, hence no unlawful acts could be considered as within the scope of any employment.

The Commonwealth Court Act of January 6, 1970, No. 185, confers original and exclusive jurisdiction upon that Court of “all civil actions and proceedings against the Commonwealth.” Similar provisions are contained in House Bill No. 1562, the Appellate Court Jurisdiction Act of 1970, which is now on my desk for approval. Accordingly, jurisdiction of the actions authorized by the bill against the Commonwealth would be exclusively in that Court. This would impose an added and extraordinary burden upon the Court which was not within the contemplation of the Constitutional Convention in providing for the creation of that Court, nor of the statutes implementing its provisions. The Commonwealth Court Act contemplates that regular sessions of the Court be held at Harrisburg, and that routine business be conducted there. Certainly a trial involving negligent conduct of a state employe would be “routine” business if this bill should become law, regardless of the number of suits filed as a result of its enactment.

Under the provision requiring the case to be handled as would one against “any other defendant”, the Commonwealth Court might be required to sit in every judicial district, with no provision for courtroom facilities, and no provision for the complications and expenses of jury trials. However, the act creating the Commonwealth Court does not contemplate or make provision for jury trials. In any event, since under the Commonwealth Court Act that Court has exclusive jurisdiction of actions against the Commonwealth, it would be burdened with tort suits under this bill in addition to its regular business involving state agencies. As a consequence, it would probably be required to spend more time in these negligence cases than in its primary function as intended by the Constitutional Convention.

Another very serious problem is created by the fact that the bill provides only for personal injury claims, and leaves untouched the frequently accompanying property damage claims. Since the plaintiff can seek recovery against the Commonwealth only for personal injury, he must seek his remedy for property damage in some other court, if he wishes to pursue it against the state employe. This would necessitate two separate actions in separate jurisdictions before different courts to recover damages resulting from a single negligent act. Furthermore, inasmuch as the Commonwealth Court is without jurisdiction in actions against state employes, the party whose negligence gave rise to the cause of action could not be joined as a defendant in the suit against his employer, the Commonwealth. This would require so-called “splitting the cause of action”, something that cannot ordinarily be done in our courts. Once plaintiff has brought his suit against the Commonwealth for the personal injury portion of his claim, he may have lost his right to pursue the

property damage claim against the employ. I am sure that this absurd result could not have been intended by the Legislature.

My disapproval of this bill can in no way be detrimental to the interests of persons who may receive injury by reason of the negligence of a state employe. The Commonwealth, aware of its governmental immunity from suit, and to provide such protection, has purchased public liability insurance for the protection of injured persons. That insurance covers employe liability in a long list of state activities, including many independent state authorities and agencies such as the General State Authority and Turnpike Commission. This insurance includes coverage against property damage as well as personal injuries. Since there exists this large insurance coverage of all such state and state-connected employes when acting in the scope of their employment, the chief result of the bill, if approved, would only be to enhance any jury verdict solely because of the presence of the Commonwealth as a defendant, and possibly enhance the verdict above the extremely liberal limits of the insurance we carry. The premium cost of this insurance paid by the Commonwealth is in excess of a million dollars annually.

In sum, therefore, the bill would create extreme confusion in the law; it would create unknown but large additional expense; it would impose a large new and unworkable jurisdiction on the Commonwealth Court and would greatly impair the efficiency of that Court; and it is not presently essential because of the comprehensive insurance coverage of state employes against personal injury and property damage claims. It would, if enacted, needlessly and dangerously unbalance future budgets and appropriations.

For these reasons, the bill is not approved.

RAYMOND P. SHAFER

No. 6

AN ACT

SB 1442

Amending the act of April 9, 1929 (P.L.177), entitled "An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employes in certain departments, boards, and commissions; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employes of certain departments, boards and commissions shall be determined," making the Pennsylvania Labor Relations Board an independent administrative board and defining its powers, property and duties; transferring certain powers, duties and employes from the Department of Labor and Industry to the said board and appropriating to the board moneys appropriated or allocated to or for the use of the Pennsylvania Labor Relations Board.

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

Section 1. Section 201, act of April 9, 1929 (P.L.177), known as "The Administrative Code of 1929," amended December 18, 1968 (Act No. 390), is amended to read:

Section 201. Executive Officers, Administrative Departments, and Independent Administrative Boards and Commissions.—The executive and administrative work of this Commonwealth shall be performed by the Executive Department, consisting of the Governor, Lieutenant Governor, Secretary of the Commonwealth, Attorney General, Auditor General, State Treasurer, and Superintendent of Public Instruction; by the Executive Board, and the Pennsylvania State Police; by the following administrative departments: Department of State, Department of Justice, Department of the Auditor General, Treasury Department, Department of Public Instruction, Department of Military Affairs, Insurance Department, Department of Banking, Department of Agriculture, Department of Forests and Waters, Department of Mines and Mineral Industries, Department of Highways, Department of Health, Department of Labor and Industry, Department of Public Welfare, Department of Property and Supplies, Department of Revenue, Department of Commerce, and Department of Community Affairs; and by the following independent administrative boards and commissions: Pennsylvania Game Commission, Pennsylvania Fish Commission, State Civil Service Commission, Pennsylvania Public Utility Commission, [and the]

Pennsylvania Historical and Museum Commission, *and the Pennsylvania Labor Relations Board.*

All of the provisions of this act, which apply generally to administrative departments, or generally except to the Department of the Auditor General and the Treasury Department, shall apply to the Executive Board and to the Pennsylvania State Police.

Section 2. As much as applies to the Department of Labor and Industry of section 202 of the act, amended July 28, 1953 (P.L.656), is amended to read:

Section 202. Departmental Administrative Boards, Commissions, and Offices.—The following boards, commissions, and offices are hereby placed and made departmental administrative boards, commissions, or offices, as the case may be, in the respective administrative departments mentioned in the preceding section, as follows:

* * *

In the Department of Labor And Industry,
 Workmen's Compensation Board,
 Workmen's Compensation Referees,
 State Workmen's Insurance Board,
 The Industrial Board,
 Unemployment Compensation Board of Review,
 [Pennsylvania Labor Relations Board,]
 Advisory Council on Affairs of the Handicapped;

* * *

Section 3. The act is amended by adding a new article to read:

ARTICLE XXVIII-B
Powers and Duties of the
Pennsylvania Labor Relations Board

Section 2801-B Pennsylvania Labor Relations Board.—The Pennsylvania Labor Relations Board shall continue to exercise the powers and perform the duties by law vested in and imposed upon such board.

Section 4. (a) After the effective date of this act, all employes of the Pennsylvania Labor Relations Board in the Department of Labor and Industry shall become members of the Pennsylvania Labor Relations Board, an independent administrative board, as created in this amendatory act and shall continue to perform their usual duties upon the same terms and conditions as theretofore until lawfully removed, promoted or appointed to other positions.

(b) Any unexpended balance existing on the effective date of this act in any appropriation made to the Department of Labor and Industry for use of the Pennsylvania Labor Relations Board is transferred and appropriated to the Pennsylvania Labor Relations Board for the use of the Pennsylvania Labor Relations Board in the performance of its duties.

Section 5. This act shall take effect immediately.

July 24, 1970

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 1442, Printer's No. 1731, entitled "An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employes in certain departments, boards, and commissions; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employes of certain departments, boards and commissions shall be determined," making the Pennsylvania Labor Relations Board an independent administrative board and defining its powers, property and duties; transferring certain powers, duties and employes from the Department of Labor and Industry to the said board and appropriating to the board moneys appropriated or allocated to or for the use of the Pennsylvania Labor Relations Board.

This bill would change the status of the Pennsylvania Labor Relations Board from that of an administrative board of the Department of Labor and Industry to an independent administrative board. It would permit the Pennsylvania Labor Relations Board to continue to exercise the powers and perform the duties previously vested in and imposed upon such board.

The change of status which would have been accomplished by this bill was justified and necessitated by reason of the additional and comprehensive duties imposed upon it by Senate Bill No. 1443, Printer's No. 1829, which bill would have also increased the membership of the Board from three (3) to five (5) members and would have provided for additional compensation commensurate with such increased duties. However, the Legislature, by its defeat of Senate Bill No. 1443, removed the necessity and justification for the change of status which would have been accomplished by Senate Bill No. 1442.

For these reasons the bill is not approved.

RAYMOND P. SHAFER

No. 7

AN ACT

SB 1433

Amending the act of June 1, 1959 (P.L.392), entitled "An act relating to the retirement of State employes; amending, revising, consolidating and changing the laws relating thereto," further providing for certain death benefits.

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

Section 1. Subsection (3) of section 407, act of June 1, 1959 (P.L.392), known as the "State Employes' Retirement Code of 1959," amended July 31, 1968 (Act No. 230), is amended to read:

Section 407. Death Benefits.—

* * *

(3) Should a contributor die before becoming eligible for retirement according to the provisions of subsection (1) or (2) of this section, after having completed ten (10) years of total credited service or having accumulated one hundred (100) involuntary withdrawal credits, *or whose age calculated to the nearest birthday is his superannuation retirement age*, there shall be paid to his estate, or to such person as he shall have nominated by written designation duly executed and filed with the retirement board, his accumulated deductions, his accumulated social security integration deductions, and in addition, the present value of a State annuity beginning at superannuation retirement age and calculated *in accordance with the applicable provisions of section 401 of this article* and based upon the final average salary, years of credited service, average non-covered salary, and social security integration credit of the deceased contributor, and reduced as follows:

(a) In the case of a member of Class A, Class B or Class C, whose entire service shall have been in one class of membership, the present value of the State annuity shall be multiplied by the ratio determined by dividing the number of years of credited service prior to death by twenty-five (25), unless the number of years of service which he would have to his credit had he continued in service until superannuation retirement age is less than twenty-five (25), in which case such lesser number of years of service shall be substituted for twenty-five (25) in the denominator of the ratio.

(b) In the case of a member of Class E or Class E-1 whose entire service shall have been in one class of membership, the present value of the State annuity shall be multiplied by the ratio determined by dividing the number of years of credited service prior to death by twenty (20), unless the number of years of service which he would have to his credit had he continued in service until superannuation retirement age is less than twenty (20), in which case such lesser number of years of service shall be substituted for twenty (20) in the denominator of the ratio.

(c) In the case of a contributor with credit for multiple service, the present value of the State annuity shall be multiplied by the ratio determined by dividing the number of voluntary withdrawal credits to his credit at date of death by one hundred (100), unless the number of voluntary withdrawal credits which he would have to his credit had he continued in service until superannuation retirement age is less than one hundred (100), in which case such lesser number of withdrawal credits shall be substituted for one hundred (100) in the denominator of the ratio.

* * *

Section 2. This act shall take effect immediately and shall be applicable to all persons dying on or after January 1, 1970.

July 31, 1970

To the Honorable, the Senate of the
Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 1433, Printer's No. 1714, entitled "An Act amending the act of June 1, 1959 (P.L.392), entitled 'An act relating to the retirement of State employes; amending, revising, consolidating and changing the laws relating thereto,' further providing for certain death benefits."

This bill would amend the State Employes' Retirement Code of June 1, 1959, (P.L.392). It would authorize the payment of death benefits to members who die within 6 months of superannuation retirement age (60) but before completion of ten years of service. Present law permits such payment only for those who attain the age of 60 before completion of ten years of service.

The bill would provide liberalized death benefits but only at the expense of departing from the historically sound actuarial concept of providing retirement benefits at age 60 for State employes. The additional liability incurred by this amendment is incalculable, but clearly could involve substantial sums, thus it could upset the actuarial soundness of the State Employes' Retirement Fund. Furthermore, the provision that the amendment shall be applicable to all persons dying on or after January 1, 1970 creates a patent discrimination and lack of uniformity. If the amendment is justifiable, its application should not be limited retroactively to any particular period.

For these reasons, the bill is not approved.

RAYMOND P. SHAFER

No. 8

AN ACT

HB 1795

Establishing Uniform Standards Code approved by the United States of America Standards Institute for the body and frame design and construction and the installation of plumbing, heating, and electrical systems in mobile homes; requiring a license to be issued by the Department of Labor and Industry to mobile home dealers and manufacturers engaged in business in this State; requiring all mobile homes to bear a Seal of Certification of License issued by the Department of Labor and Industry; providing for inspection; establishing fees and charges; providing for enforcement and penalties; providing for restriction and placement of serial numbers; and declaring an emergency.

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

Section 1. Short Title.—This act shall be known and may be cited as the “Uniform Standards Code for Mobile Homes.”

Section 2. Definitions.—As used in this act, unless the context requires a different definition:

(1) “Mobile home” means a transportable, single family dwelling, which may be towed on a running gear, and which may be permanently affixed to real estate, used for nontransient residential purposes, and constructed with the same, or similar, electrical, plumbing and sanitary facilities as *immobile housing*.

(2) “Code” means the uniform standards code that meets the United States of America Standards Institute standards set up for mobile homes for the body and frame design and construction and the installation of the electrical systems, plumbing and heating.

(3) “Seal” means a device or insignia issued by the Department of Labor and Industry, certifying that a manufacturer or dealer has been licensed to do business in the Commonwealth of Pennsylvania, to be displayed on the exterior of the mobile home.

(4) “Dealer” means a person who is defined as a new mobile home dealer or a used mobile home dealer as that term is defined in section 102 of “The Vehicle Code.”

(5) “Manufacturer” means any person engaged in the business of manufacturing mobile homes as defined herein.

(6) “Department” means the Department of Labor and Industry.

(7) “Person” means a person, partnership, company, corporation, or association engaged in manufacturing or selling mobile homes.

Section 3. Establishment of Uniform Standards Code.—(a) The body and frame design and construction of mobile homes and all plumbing, heating, and electrical systems installed in mobile homes manufactured more than six months after the effective date of this act and sold or offered for sale in this Commonwealth must meet the standards approved by the

United States of America Standards Institute for the body and frame design and construction, and installation of plumbing, heating, and electrical systems in mobile homes, said standards being known as USAS A-119.1-1969 and NFPA 501B-1968, approved January 27, 1969, and all amendments and supplements thereto.

(b) The department may adopt and promulgate any changes in and additions to the standards referred to in subsection (a) of this section made by the United States of America Standards Institute, or its successor.

(c) At least thirty days before the adoption or promulgation of any change in or addition to the standards set forth in subsection (a) of this section or under the authority of subsection (b) of this section, the department shall mail to all dealers and manufacturers licensed under this act and to the Bureau of Consumer Protection a notice including:

- (1) A copy of the proposed changes and additions; and
- (2) The time and place that the department will consider any objections to the proposed changes and additions.

(d) After giving the notice required by subsection (c) of this section, the department shall afford interested persons an opportunity to participate in the rule making through submission of written data, views or arguments with or without opportunity to present the same orally in any matter.

Section 4. Issue of License and Seals.—Any manufacturer or dealer within or without this Commonwealth shall apply for a license to sell to licensed dealers or to the public of this Commonwealth and shall comply with all rules and regulations of the department regarding the obtaining of a license.

Seals may be issued when applied for with an affidavit certifying that any mobile home that a seal is attached to will be built at least equal to the code standards referred to in section 3. Any licensed dealer who has acquired a used mobile home manufactured prior to the applicability of this act may, but is not required to affix a seal only after filing an affidavit with the department certifying that the unit was brought up to or meets the requirements of the said code standards.

Section 5. Seal of Certification Required; Violations.—No person may sell or offer for sale in this Commonwealth any mobile home manufactured more than six months following the effective date of this act unless it bears a seal along with certification by a manufacturer, or by a dealer that such mobile home meets or exceeds the code standards established by this act, which seal shall be displayed in the manner prescribed by the department. No person may manufacture in this Commonwealth any mobile home more than six months following the effective date of this act unless it meets or exceeds the code standards established by this act. No person may affix a seal to any mobile home which does not meet or exceed the requirements of the code standards established by this act.

The provisions of this section shall not apply to the manufacture or sale of mobile homes designated for delivery and use outside the Commonwealth.

Section 6. Fees and Charges.—(a) The fee for a license issued by the department shall be twenty-five dollars (\$25) per year renewable by the first of each calendar year.

(b) Seals, as provided for in this article, shall be furnished by the department, for which the applicant shall pay a fee of one dollar (\$1) each. The manufacturer or dealer shall have the authority to affix such seal to any mobile home manufactured in conformity with the code standards established under this act.

Section 7. Administration of Act.—(a) The department is hereby charged with the administration of this act. It shall make and amend, alter or repeal general rules and regulations of procedure for carrying into effect all provisions of this act, and to prescribe means, methods, and practice to make effective such provisions.

(b) No person may interfere, obstruct or hinder an authorized representative of the department in the performance of its duty as set forth in the provisions of this act.

(c) The department through its authorized representatives, may enter any place or establishment where mobile homes are manufactured, sold, or offered for sale, for the purpose of ascertaining whether the requirements of this act and the regulations of the department have been met.

Section 8. Penalties.—Any person who violates or fails to comply with this act shall be notified of the violation by the department and instructed to correct the violation by bringing the mobile home up to code standards within ninety days after notification. Should the person fail to make the necessary corrections within the specified time, he shall, upon summary conviction thereof, be sentenced to pay a fine not exceeding one hundred dollars (\$100) per day, until such corrections are made.

The department shall revoke the license of a manufacturer who violates the provisions of this act on five occasions, and of a dealer who violates the provisions of this act on two occasions, during the course of any calendar year.

Section 9. Serial Number.—A serial number shall be stamped on the left-hand side of the top of the draw bar or A-frame of each mobile home or, if the draw bar or A-frame is removable, the serial number shall be stamped on the main frame at the front of the mobile home so that it may be easily read. It may not contain more than fifteen digits. Any multiple units shall contain the same serial number with letters of the alphabet designating that each is a different separate unit. Starting with the letter "A", each additional unit shall be in alphabetical order and such letters be stamped at the end of the numbers.

Section 10. Effective Date.—This act shall take effect immediately.

November 27, 1970

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 1795, Printer's No. 2743, entitled "An Act establishing Uniform Standards Code approved by the United States of America Standards Institute for the body and frame design and construction and the installation of plumbing, heating, and electrical systems in mobile homes; requiring a license to be issued by the Department of Labor and Industry to mobile home dealers and manufacturers engaged in business in this State; requiring all mobile homes to bear a Seal of Certification of License issued by the Department of Labor and Industry; providing for inspection; establishing fees and charges; providing for enforcement and penalties; providing for restriction and placement of serial numbers; and declaring an emergency."

The bill would establish a uniform standards code that complies with the United States of America Standards Institute's standards for the body, frame design, construction and installation of electrical systems, plumbing and heating for mobile homes.

The bill would authorize the Department of Labor and Industry to issue licenses and seals of certification to mobile home dealers and manufacturers engaged in this business within the Commonwealth, and to promulgate rules and regulations relative to the administration of this act. It would require the payment of fees for the issuance of such licenses. Criminal penalties are also provided for violation of the provisions of the act.

Notwithstanding the fact that there may be justification for regulating the manufacture and sale of mobile homes, this bill contains such serious deficiencies that its passage would impede rather than promote its stated purposes.

Great difficulty would be encountered in administering the bill because of the impossibility of determining whether a mobile home, prior to its manufacture and sale, is destined for out-of-State use. Moreover, the procedures necessary to promulgate changes in the standards established by the act, which would require thirty days prior notice to all dealers and manufacturers in order to give them an opportunity to express their views on the proposed changes, would be burdensome to and complicate the effective administration of the statute.

The implementation of this act would require the expenditure of an unascertainably large sum of money for the employment of staff and administration. The license fees provided by the bill would be totally inadequate to cover such costs. This violates the basic concept that the imposition of a license fee is intended to provide for sufficient funds to defray all expenses involved in the administration of a licensing statute.

The expenditure required to administer this act was not anticipated or provided for in the budget for the current fiscal year. The present fiscal situation of the Commonwealth makes it impossible for me to approve any bill providing for the expenditure of such unbudgeted item.

For these reasons, the bill is not approved.

RAYMOND P. SHAFER

No. 9

AN ACT

HB 1876

Authorizing and directing the Department of Property and Supplies and The General State Authority to sell and convey under certain conditions a certain lot or tract of ground with improvements thereon located in Philadelphia, Pennsylvania.

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

Section 1. The Department of Property and Supplies and The General State Authority immediately upon payment of all bonds relating to such property are hereby authorized and directed, on behalf of the *Commonwealth of Pennsylvania*, to sell and convey to the City of Philadelphia for a consideration of one dollar (\$1), the following described tract of land with any improvements thereon, and known as the Eastern State Correctional Institution, in the City of Philadelphia, Commonwealth of Pennsylvania:

All that certain lot or piece of ground situate in the Fifteenth Ward of the City of Philadelphia and described in accordance with a plan made November 1969, by Thomas J. Johnston, Surveyor and Regulator of the Third Survey District:

Beginning at a point of intersection formed by the northeasterly side of Fairmount Avenue (80 feet wide) and the southeasterly side of Twenty-second Street (60 feet wide); thence extending north 3 degrees 41 minutes 51 seconds east along the said southeasterly side of Twenty-second Street the distance of 672 feet, 8-5/8 inches to an angle point; thence extending north 11 degrees 21 minutes east along the southeasterly side of Twenty-second Street (60 feet wide) the distance of 84 feet, 4-1/2 inches to the southwesterly side of Brown Street (50 feet wide); thence extending south 78 degrees 59 minutes east along the said southwesterly side of Brown Street the distance of 737 feet, 6-3/8 inches to the northwesterly side of Corinthian Avenue (80 feet wide); thence extending south 9 degrees 57 minutes west along the said northwesterly side of Corinthian Avenue the distance of 660 feet, 7-5/8 inches to the northeasterly side of Fairmount Avenue (80 feet wide); thence extending north 86 degrees 47 minutes 17 seconds west along the said northeasterly side of Fairmount Avenue the distance of 670 feet, 9-7/8 inches to the first mentioned point and place of beginning.

The conveyance shall be made under and subject to all title restrictions of record at the time of the enactment of this act.

Section 2. The deed of conveyance shall be approved by the Department of Justice and shall be executed by the Secretary of Property and Supplies in the name of the Commonwealth of Pennsylvania.

Section 3. This act shall take effect immediately.

November 27, 1970

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 1876, Printer's No. 3277, entitled "An Act authorizing and directing the Department of Property and Supplies and The General State Authority to sell and convey under certain conditions a certain lot or tract of ground with improvements thereon located in Philadelphia, Pennsylvania."

This bill would authorize and direct the sale and conveyance of the tract of land with improvements thereon, known as the Eastern State Correctional Institution in the Fifteenth Ward of the City of Philadelphia by the Department of Property and Supplies and The General State Authority to the City of Philadelphia for a consideration of one dollar, immediately upon payment of all bonds relating to such property.

The bill also provides that the conveyance shall be made under and subject to all title restrictions of record at the time of the enactment of the bill into law.

This is a type of legislation which would serve the purpose of a municipality in need of facilities to better house its prisoners awaiting trial, and anxious to better its penal security problems. The conveyance would normally be encouraged by the administration in the spirit of cooperation of the Commonwealth with local municipal government.

However, an accurate assessment of the true correctional needs of the City of Philadelphia, and a comprehensive program for meeting those needs, has not yet been accomplished. An unconditional conveyance of the institution at this time might prove detrimental and in conflict with developing comprehensive plans for reform.

Under these circumstances, I have no alternative than to express my disapproval of the bill.

For these reasons, the bill is not approved.

RAYMOND P. SHAFER

No. 10

AN ACT

HB 2025

Providing for control and supervision of the State Capitol Building and the public grounds and buildings connected therewith, within the City of Harrisburg, by the General Assembly, and providing for a joint Senate and House Committee to carry out certain functions and duties.

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

Section 1. The General Assembly of Pennsylvania shall control and supervise the State Capitol Building, and the public grounds and buildings connected with the State Capitol and located within the City of Harrisburg, and make, or supervise the making, of all repairs, alterations and improvements in and about such grounds and buildings, including the furnishing and refurnishing of the same.

Section 2. The President Pro Tempore of the Senate shall appoint five Senators, three from the Majority Party and two from the Minority Party, and the Speaker of the House of Representatives shall appoint five members of the House, three from the Majority Party and two from the Minority Party, who shall constitute a joint committee to carry out such provisions of section 1 of this act as are assigned to them by the General Assembly of Pennsylvania.

Section 3. All acts and parts of acts inconsistent herewith are repealed.

Section 4. This act shall take effect immediately.

November 27, 1970

To the Honorable, the House of Representatives
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, House Bill No. 2025, Printer's No. 2663, entitled "An Act providing for control and supervision of the State Capitol Building and the public grounds and buildings connected therewith, within the City of Harrisburg, by the General Assembly, and providing for a joint Senate and House Committee to carry out certain functions and duties."

This bill would direct that the General Assembly shall control and supervise the State Capitol Building, and the public grounds and buildings connected with the State Capitol and located within the City of Harrisburg, and make or supervise the making of all repairs, alterations in and about such grounds and buildings, including the furnishing and refurnishing of same.

The bill would direct the President Pro Tempore of the Senate to appoint five Senators, three from the Majority Party and two from the Minority Party, and the Speaker of the House of Representatives to

appoint five members of the House, three from the Majority Party and two from the Minority Party, who shall constitute a joint committee to carry out the provisions of the act as are assigned to them by the General Assembly.

Bills to accomplish the same general purpose, although less drastic in content, have previously been vetoed by Governor Lawrence on September 20, 1961, Governor Scranton on August 14, 1963, and by me on April 3, 1969.

The General Assembly is responsible for the initiation of legislation accompanied by proper appropriations for the guidance and direction of the several administrative divisions to improve governmental services in the best interests of the Commonwealth.

This bill, however, would vest the General Assembly itself with additional exclusive powers of administration beyond the legislative functions authorized by the Constitution.

The bill would affect all agencies of the Commonwealth located in Harrisburg, particularly those still located in the Main Capitol without any plan or procedure for relocation. It would confer exclusive jurisdiction upon the General Assembly to fix and alter the extent of office space to be occupied in connection with the performance of essential executive functions. The areas affected would include those presently occupied by the Governor and his staff; the Lieutenant Governor and his staff; the court rooms and related offices of the Judiciary Division of the Commonwealth housing the Supreme, Superior and Commonwealth courts; the Land Office of the Department of Community Affairs, centrally located to serve the legal profession and the public, containing thousands of irreplaceable original documents such as surveys, warrants, patents, and deeds to the Commonwealth, demonstrating primary evidence of the Commonwealth's title to its real estate holdings, together with special equipment so constructed as to form an integral part of the building; and the Main Capitol headquarters of the Department of Justice, housing the office of the Attorney General, his principal deputies, office force, and the appurtenant law library, all of which must be at near-by locations for ready access by the Governor and his staff.

To remove from the Main Capitol Building any particular department presently located there, without first providing for other suitable office space, would cause serious problems and bring about major dislocations in the activities of that, and perhaps other departments. Moreover, providing for other accommodations would necessarily require an appropriation of funds with which to pay for such space. A bill which provides for the possibility of the occupation of a substantial part of the Main Capitol Building by the legislative branch of the government without making provisions for the needs of other branches of the State government is, in my opinion, not consistent with the orderly operation of government.

The allocation of office space necessary to meet the needs of the executive branch of the State government is a matter which, in my judgment, ought to remain under the jurisdiction of the executive head thereof. Any changes effected in this important area should be made only with the approval of the Governor who has special knowledge as to the office space essential to the proper performance of the executive functions of the government.

Our objection to this bill does not mean that we are not fully aware of the space needs of the General Assembly. On the contrary, our cooperative response to this need is convincingly evidenced by the fact that during this Administration we have relinquished and allocated 156,000 additional square feet of space in the Main Capitol Building to the General Assembly. This is in excess of any allocation of such space made to that body during any previous administration.

I retain the opinion that the allocation of office space necessary to meet the needs of the executive branch of the Commonwealth's government should remain under the jurisdiction of the executive head thereof and any changes effected in this vital area should be made only with the approval of the Governor whose ability for efficient direction and monitoring of the mandated functions of the several administrative divisions under his jurisdiction would be drastically and adversely affected by the provisions in this bill.

For the above reasons, this bill is not approved.

RAYMOND P. SHAFER

No. 11

AN ACT

SB 259

Amending the act of June 1, 1959 (P.L.350), entitled "An act relating to the retirement of public school employes; amending, revising, consolidating and changing the laws relating thereto," providing for minimum and supplemental benefits for annuitants who are in receipt of withdrawal allowances.

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

Section 1. Subsection (5) and the first paragraph of subsection (6) of section 407, act of June 1, 1959 (P.L.350), known as the "Public School Employes' Retirement Code of 1959," added June 28, 1967 (P.L.129), are amended to read:

Section 407. Minimum and Supplemental Benefits to Former School Employes.—

* * *

(5) Every annuitant who is in receipt of a superannuation or disability allowance *and every annuitant who is in receipt of a withdrawal allowance and who provides an affidavit to the retirement board to the effect that he did not seek or accept full-time employment with another employer at the time he elected to receive his withdrawal allowance and is not less than sixty-two (62) years of age* shall be entitled to receive a supplemental State annuity which shall be equivalent to the amount by which his retirement allowance prior to any optional modification is less than sixty-five dollars (\$65) for each year of credited service not in excess of forty (40) years: Provided, however, That the sum of (a) the retirement allowance prior to optional modification, (b) any social security old age or disability insurance benefit (primary insurance amount) attributable to service as a school employe, and (c) the supplemental State annuity, shall not exceed two thousand six hundred dollars (\$2,600) per year.

(6) Every annuitant who is in receipt of a superannuation or disability allowance *and every annuitant who is in receipt of a withdrawal allowance and who provides an affidavit to the retirement board to the effect that he did not seek or accept full-time employment with another employer at the time he elected to receive his withdrawal allowance* which became effective prior to January 1, [1965] 1967 shall receive, beginning July 1, 1967 and annually thereafter a cost-of-living increase which shall be the product of the retirement allowance determined at the time of retirement and prior to optional modification and the following percentages as determined by the calendar year in which retirement became effective:

* * *

Section 2. This act shall take effect immediately.

November 27, 1970

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

I return herewith, without my approval, Senate Bill No. 259, Printer's No. 820, entitled "An Act amending the act of June 1, 1959 (P.L.350), entitled 'An act relating to the retirement of public school employes; amending, revising, consolidating and changing the laws relating thereto,' providing for minimum and supplemental benefits for annuitants who are in receipt of withdrawal allowances."

The bill would provide for minimum and supplemental benefits for annuitants who are in receipt of withdrawal allowances if they file an affidavit to the effect that they did not seek or accept full-time employment with another employer at the time they elected to receive said allowance. Under present law, only those who attain superannuation retirement age or are disabled are entitled to these benefits.

This amendment would authorize the payment of such benefits for those employes who voluntarily terminate their school services and seek other employment. This destroys the basic concept of the retirement law, which was designed to provide retirement benefits for those who terminate their school employment because of age or disability.

It is estimated that the minimum and supplemental benefits provided by this amendment would require additional annual expenditures of \$250,000. This expenditure was not anticipated or provided for in the budget for the current fiscal year. The present fiscal situation of the Commonwealth makes it impossible for me to approve a bill providing for the expenditure of such unbudgeted item.

For these reasons, the bill is not approved.

RAYMOND P. SHAFER

IN THE NAME AND BY AUTHORITY OF THE

Commonwealth of Pennsylvania



Governor's Office
HARRISBURG

PROCLAMATION

I, Raymond P. Shafer, Governor of the Commonwealth of Pennsylvania, have caused this Proclamation to issue, and in compliance with the provisions of Article IV, Section 15, of the Constitution thereof, do hereby give notice that I have filed in the Office of the Secretary of the Commonwealth, with my objections thereto, the following bills passed by both Houses of the General Assembly at the Regular Session of 1970, viz:

House Bill No. 971, entitled "An Act exempting bonds of municipalities and school districts of the Commonwealth of Pennsylvania from taxation within the Commonwealth of Pennsylvania."

House Bill No. 386, entitled "An Act amending the act of June 1, 1959 (P.L. 392), entitled 'An act relating to the retirement of State employes; amending, revising, consolidating and changing the laws relating thereto,' further defining the term 'State employe' and providing for crediting of certain service in the Philadelphia retirement system to the State system."

House Bill No. 1784, entitled "An Act amending the act of June 1, 1959 (P.L. 392), entitled 'An act relating to the retirement of State employes; amending, revising, consolidating and changing the laws relating thereto,' granting credit to certain State employes for certain employment by cities of the second class."

House Bill No. 2408, entitled "An Act amending the act of June 21, 1957 (P.L. 390), entitled 'An act requiring certain records of the Commonwealth and its political subdivisions and of certain authorities and other agencies performing essential governmental functions, to be open for examination and inspection by citizens of the Commonwealth of Pennsylvania; authorizing such citizens under certain conditions to make extracts, copies, photographs or photostats of such records; and providing for appeals to the courts of common pleas,' changing the definition of 'public record.'"

GIVEN under my hand and the Great Seal of the State, at the City of Harrisburg, this thirtieth day of December, in the year of our Lord one thousand nine hundred and seventy, and of the Commonwealth the one hundred and ninety-fifth.

Raymond P. Shafer

BY THE GOVERNOR:

RAYMOND P. SHAFER
GOVERNOR

Jack J. Keller, Jr.

Secretary of the Commonwealth

No. 12

AN ACT

HB 971

Exempting bonds of municipalities and school districts of the Commonwealth of Pennsylvania from taxation within the Commonwealth of Pennsylvania.

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

Section 1. The bonds issued by any municipality or school district of the Commonwealth of Pennsylvania, their transfer and the income received from them, including any profit made on the sale of them, shall at all times be free from taxation within the Commonwealth of Pennsylvania.

Section 2. This act shall take effect immediately.

December 2, 1970

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 971, Printer's No. 3605, entitled "An Act exempting bonds of municipalities and school districts of the Commonwealth of Pennsylvania from taxation within the Commonwealth of Pennsylvania."

The bill provides that the bonds issued by any municipality or school district of the Commonwealth, their transfer and the income received from them, including any profit made on the sale of them, shall at all times be free from taxation within the Commonwealth.

The proposed legislation would exempt such bonds from the inheritance tax as well as other taxes. The impact on inheritance tax revenues would be very considerable since ordinarily large blocks of such bonds are held by the large estates. Additionally, such exemption would provide an avenue for tax avoidance by estate planners through the conversion of assets into such bonds. It would have no impact upon the income of such bonds since such income is presently exempt from Federal and State taxation.

The fiscal situation of the Commonwealth militates against the approval of a bill which would have a serious negative effect upon revenues and creates a loophole for tax avoidance.

For these reasons, the bill is not approved.

RAYMOND P. SHAFER

No. 13

AN ACT

HB 386

Amending the act of June 1, 1959 (P.L.392), entitled "An act relating to the retirement of State employes; amending, revising, consolidating and changing the laws relating thereto," further defining the term "State employe" and providing for crediting of certain service in the Philadelphia retirement system to the State system.

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

Section 1. Subclause (ii) of clause (a) of subsection (6) of section 102, act of June 1, 1959 (P.L.392), known as the "State Employes' Retirement Code of 1959," is amended to read:

Section 102. Definitions.—The following words and phrases as used in this act, unless a different meaning is plainly required by the context, shall have the following meanings:

* * *

(6) "State employe" shall mean a person in one or more of the following categories:

(a) Any person holding a State office or position under the Commonwealth, employed on a yearly or monthly basis by the State government of the Commonwealth, in any capacity whatsoever except any officer or employe employed on a per diem or hourly basis for less than one hundred (100) days or seven hundred fifty (750) hours other than a legislative employe, and except any officer or employe who has elected membership in the Public School Employes' Retirement System and has not filed with the Public School Employes' Retirement Board an election in writing to transfer such membership and become a member of the State Employes' Retirement System. Such definition shall include, but shall not be limited to—

* * *

(ii) Any judge whose salary is paid by the Commonwealth, including the Chief Justice and any judge of the Supreme Court, the President Judge and any judge of the Superior Court, and any judge or associate judge not learned in the law of any court of common pleas or orphans' court, and any judge of the Municipal Court of Philadelphia, the County Court of Allegheny County and the Juvenile Court of Allegheny County *and any former magistrate of the City of Philadelphia who on January 1, 1969, became a judge of the Municipal Court of Philadelphia or the Traffic Court of Philadelphia pursuant to article V. of the Constitution of Pennsylvania together with the schedule thereof.*

* * *

Section 2. Subsection (1) of section 201 of the act is amended by adding a new clause to read:

Section 201. Mandatory and Optional Membership.—

(1) Membership in the retirement system shall be mandatory for all State employes as defined in article I. section 102, except the following:

* * *

(n) Any former magistrate of the City of Philadelphia who, on January 1, 1969 became a judge of the Municipal Court of Philadelphia or the Traffic Court of Philadelphia pursuant to article V. of the Constitution of Pennsylvania together with the schedule thereof.

* * *

Section 3. Section 204 of the act is amended by adding new subsections to read:

Section 204. Credited Service.—

* * *

(5.3) Any former magistrate of the City of Philadelphia who on January 1, 1969 became a judge of the Municipal Court of Philadelphia or the Traffic Court of Philadelphia pursuant to article V. of the Constitution of Pennsylvania together with the schedule thereof and who had been a contributor to the City of Philadelphia retirement system as of December 31, 1968, and who is not receiving or entitled to receive presently or at any time in the future a pension or other benefit from the City of Philadelphia retirement system based upon service rendered at any time prior to January 1, 1969, shall be allowed credit for all years of service as a member of the City of Philadelphia retirement system. Such credit shall be allowed by the retirement board immediately upon compliance by such State employe with the requirements of article V. section 506 subsection (4.5).

(5.4) Any judge who became a judge prior to January 1, 1969, and was a former magistrate of the City of Philadelphia and who had been a contributor to the City of Philadelphia retirement system prior to assuming the office of judge, and who is not receiving or entitled to receive presently or at any time in the future a pension or other benefit from the City of Philadelphia retirement system based upon service rendered at any time prior to January 1, 1969, shall be allowed credit for all years of service as a member of the City of Philadelphia retirement system. Such credit shall be allowed by the retirement board immediately upon compliance with the requirements of article V. section 506 subsection (4.6).

* * *

Section 4. Section 503 of the act is amended by adding a new subsection to read:

Section 503. Duties of the Retirement Board.—

* * *

(6.3) Upon application of a State employe for credit for former service as an employe of the City of Philadelphia according to the

provisions of article V. section 506 subsections (4.5) or (4.6), the retirement board, shall determine the amount to be paid by such employe into the State Employes' Retirement System; and upon payment thereof, the retirement board shall credit such employe with such period of service.

* * *

Section 5. Section 506 of the act is amended by adding new subsections to read:

Section 506. Duties of State Employes.—

* * *

(4.5) Any State employe entitled and desiring to receive credit for former service as an employe of the City of Philadelphia according to the provisions of article II. section 204 subsection (5.3), shall, within ninety (90) days of the effective date of this amending act (i) withdraw from the City of Philadelphia retirement system all contributions made thereto by him, which he is entitled to withdraw, (ii) furnish the retirement board with a statement from the City of Philadelphia Board of Pensions and Retirement certifying all such service heretofore credited as a member of the City of Philadelphia retirement system and a statement that he is not receiving or entitled to receive presently or at any time in the future will be entitled to receive a pension or other benefit under the City of Philadelphia retirement system for such service, and (iii) pay to the State Employes' Retirement System an amount to be determined by the retirement board. The amount determined by the State Employes' Retirement Board to be paid into the State Employes' Retirement System shall be the obligation of the judge who requested credit for previous service as an employe of the City of Philadelphia; in no event shall such amount be an obligation of the City of Philadelphia or the City of Philadelphia retirement system.

(4.6) Any judge entitled and desiring to receive credit for former service as an employe of the City of Philadelphia according to the provisions of article II. section 204 subsection (5.4), shall within ninety (90) days of the effective date of this amending act (i) file with the Board of Pensions and Retirement of the City of Philadelphia an effective and irrevocable waiver of all benefits under the Municipal Retirement System of the City of Philadelphia applicable to him or to any of his beneficiaries based upon such service, including the right to re-purchase credit for such service upon any future return to employment with the City of Philadelphia or a statement that he is not receiving or entitled to receive presently or at any time in the future will be entitled to receive a pension or other benefit under the City of Philadelphia retirement system for such service; (ii) furnish the retirement board with a statement from the City of Philadelphia Board of Pensions and Retirement certifying all such service heretofore credited as a member of the City of Philadelphia retirement system; and (iii) pay to the State

Employes' Retirement System an amount to be determined by the retirement board. The amount determined by the State Employes' Retirement Board to be paid into the State Employes' Retirement System shall be the obligation of the judge who requested credit for previous service as an employe of the City of Philadelphia; in no event shall such amount be an obligation of the City of Philadelphia or the City of Philadelphia retirement system.

* * *

Section 6. This act shall take effect immediately.

December 30, 1970

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 386, Printer's No. 3627, entitled "An act amending the act of June 1, 1959 (P.L.392), entitled 'An act relating to the retirement of State employes; amending, revising, consolidating and changing the laws relating thereto,' further defining the term 'State employe' and providing for crediting of certain service in the Philadelphia retirement system to the State system."

This bill would permit any former magistrate of the City of Philadelphia who, on January 1, 1969, became a judge of the Philadelphia Municipal Court or Traffic Court, pursuant to Article V of the Pennsylvania Constitution, to become a member of the State Employes' Retirement System and receive credit for all years of service as a member of the City of Philadelphia retirement system upon payment of the amount determined by the State Employes' Retirement Board to be due for the purchase of such service. The City of Philadelphia is absolved from any obligation to purchase such service for these former magistrates.

The bill would also permit any judge who became a judge prior to January 1, 1969, and who was a former magistrate of the City of Philadelphia, to similarly join the State retirement program and receive credit for Philadelphia retirement service.

The purpose of the State retirement program is to provide retirement benefits for State employes who have rendered loyal and dedicated service to the Commonwealth and not to other political entities. This bill would seriously depart from that concept and would increase the prospect of expanding the program beyond its intended purposes.

Multiple service is already an integral part of the system whereby employes, who have rendered State and school service, may receive retirement credit and annuities for both, on condition that the employer funds its share of the retirement benefits attributable to the service rendered to it. This bill would impose no such obligation on the City of Philadelphia. I sincerely believe it extremely inequitable to require an employe to pay the cost of funding the employer's share for retirement benefits. It would likewise be inequitable to impose any part of such financial burden upon the Commonwealth.

For these reasons, the bill is not approved.

RAYMOND P. SHAFER

No. 14

AN ACT

HB 1784

Amending the act of June 1, 1959 (P.L.392), entitled "An act relating to the retirement of State employes; amending, revising, consolidating and changing the laws relating thereto," granting credit to certain State employes for certain employment by cities of the second class.

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

Section 1. Section 204, act of June 1, 1959 (P.L.392), known as the "State Employes' Retirement Code of 1959," is amended by adding the following subsection to read:

Section 204. Credited Service.—

* * *

(4.1) Employes of any city of the second class performing the duties of their employment for the registration commission of the city of the second class, who became contributors, shall be allowed credit from the time they first entered the employ of the city: Provided such employes shall pay to the retirement system back contributions in accordance with section 302 of this act.

* * *

Section 2. Section 302 of the act is amended by adding the following subsection to read:

Section 302. Members' Contributions on Account of Past Service.—

* * *

(h.3) Any State employe who elects to receive credit for the period during which he was employed by a city of the second class as provided by subsection (4.1) of section 204 of this act, shall pay into the fund a sum equal to what would have been his total salary deductions during such period of employment by the city of the second class, calculated on the basis of his salary during his period of employment by the city of the second class and his current rate of salary deductions, together with an additional amount as the contributions of the Commonwealth attributable to such period of employment. In no event shall increased salary deductions, determined according to the provisions of subsection (1) of this section, be an amount less than sufficient to pay such total back payments.

* * *

Section 3. This act shall take effect immediately.

December 30, 1970

I file herewith, in the Office of the Secretary of the Commonwealth, with my objections, House Bill No. 1784, Printer's No. 3590, entitled "An act amending the act of June 1, 1959 (P.L.392), entitled 'An act relating

to the retirement of State employes; amending, revising, consolidating and changing the laws relating thereto, granting credit to certain State employes for certain employment by cities of the second class.”

This bill would permit certain State employes, who were previously employed by the registration commission of a second class city, to receive service credit for such employment toward State retirement upon payment of back contributions.

This bill would mark a serious departure from the customary definition of “State employe”, for retirement purposes, and would open the door to any employe of a political subdivision rendering public service in any capacity. There is no justification in law or reason to permit the State retirement program to be a catch-all for any public employe not rendering service for or on behalf of the Commonwealth.

This bill would also confer special benefits on a very restricted class of city employe.

For these reasons, the bill is not approved.

RAYMOND P. SHAFER

No. 15

AN ACT

HB 2408

Amending the act of June 21, 1957 (P.L.390), entitled "An act requiring certain records of the Commonwealth and its political subdivisions and of certain authorities and other agencies performing essential governmental functions, to be open for examination and inspection by citizens of the Commonwealth of Pennsylvania; authorizing such citizens under certain conditions to make extracts, copies, photographs or photostats of such records; and providing for appeals to the courts of common pleas," changing the definition of "public record."

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

Section 1. Clause (2) of section 1, act of June 21, 1957 (P.L.390), entitled "An act requiring certain records of the Commonwealth and its political subdivisions and of certain authorities and other agencies performing essential governmental functions, to be open for examination and inspection by citizens of the Commonwealth of Pennsylvania; authorizing such citizens under certain conditions to make extracts, copies, photographs or photostats of such records; and providing for appeals to the courts of common pleas," is amended to read:

Section 1. In this act the following terms shall have the following meanings:

* * *

(2) "Public Record." Any account, voucher or contract dealing with the receipt or disbursement of funds by an agency or its acquisition, use or disposal of services or of supplies, materials, equipment or other property and any minute, order or decision by an agency fixing the personal or property rights, privileges, immunities, duties or obligations of any person or group of persons: Provided, That the term "public records" shall not mean any report, communication or other paper, the publication of which would disclose the institution, progress or result of an investigation undertaken by an agency in the performance of its official duties, [or] *except those reports filed by agencies pertaining to safety and health in industrial plants; it shall not include* any record, document, material, exhibit, pleading, report, memorandum or other paper, access to or the publication of which is prohibited, restricted or forbidden by statute law or order or decree of court, or which would operate to the prejudice or impairment of a person's reputation or personal security, or which would result in the loss by the Commonwealth or any of its political subdivisions or commissions or State or municipal authorities of Federal funds, excepting therefrom however the record of any conviction for any criminal act.

December 30, 1970

I file herewith, in the Office of the Secretary of the Commonwealth, with my objection, House Bill No. 2408, Printer's No. 3363, entitled "An act amending the act of June 21, 1957 (P.L.390), entitled 'An act requiring certain records of the Commonwealth and its political subdivisions and of certain authorities and other agencies performing essential governmental functions, to be open for examination and inspection by citizens of the Commonwealth of Pennsylvania; authorizing such citizens under certain conditions to make extracts, copies, photographs or photostats of such records; and providing for appeals to the courts of common pleas,' changing the definition of 'public record.' "

The bill would change the definition of "public record" to include therein any agency or departmental reports pertaining to safety and health in industrial plants. Present law prohibits the public disclosure of such confidential reports.

The purpose of the bill is to publicly disclose investigations and reports of State inspectors for violations occurring in industrial or other plants which may be detrimental to the health and safety of plant workers employed therein.

The salutary nature of the bill is obvious. However, a balance must be maintained between investigations of State agencies and disclosure thereof to those who may be personally affected thereby. State inspectors are justly concerned with securing and preserving the safety of workmen in industrial plants. It is incumbent upon State inspectors to make inspections, report any violations, and obtain corrections thereof as soon as possible. The public disclosure of such confidential material would impede and be highly detrimental to the efficient operation of this program.

For this reason, the bill is not approved.

RAYMOND P. SHAFER

