

No. 227

AN ACT

SB 21

Amending the act of April 9, 1929 (P.L.177, No.175), 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," changing the confirmation requirements for certain gubernatorial appointments.

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

Section 1. Section 207, act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," is repealed.

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

Section 207.1. Gubernatorial Appointments.—(a) Except as hereinafter provided in this section, the Governor may appoint without obtaining the advice and consent of the Senate such public officers which he is authorized by law to appoint including, without limitation, members of independent administrative boards and commissions, members of departmental administrative bodies, boards and commissions and departmental administrative officers, and members of advisory boards and commissions.

(b) The Governor shall nominate in accordance with the provisions of the Constitution of the Commonwealth of Pennsylvania and by and with the advice and consent of two-thirds of the members elected to the Senate, appoint the first justice or judge to fill a newly created office in the Unified Judicial System and a justice or judge to fill a vacancy in the office of justice or judge.

(c) The Governor shall nominate in accordance with the provisions of the Constitution of the Commonwealth of Pennsylvania and, by and with the advice and consent of two-thirds of the members elected to the Senate, appoint persons to fill the following positions:

(1) Vacancies in the offices of Auditor General and State Treasurer and in any other elective office which he is authorized by law to fill when said law requires confirmation.

(2) Those members which he is authorized to appoint to the Milk Marketing Board, the Pennsylvania Fish Commission, the Pennsylvania Game Commission, the Pennsylvania Liquor Control Board, the Pennsylvania Public Utility Commission and the Pennsylvania Turnpike Commission.

(d) The Governor shall nominate in accordance with the provisions of the Constitution of the Commonwealth of Pennsylvania and, by and with the advice and consent of a majority of the members elected to the Senate appoint persons to fill the following positions:

(1) The Attorney General, the Secretary of Education, the Secretary of the Commonwealth, the Adjutant General, the Insurance Commissioner, the Secretary of Banking, the Secretary of Agriculture, the Secretary of Transportation, the Secretary of Health, the Commissioner of the State Police, the Secretary of Labor and Industry, the Secretary of Public Welfare, the Secretary of General Services, the Secretary of Revenue, the Secretary of Commerce, the Secretary of Community Affairs and the Secretary of Environmental Resources.

(2) Those members which he is authorized to appoint to the Board of Pardons, the Board of Probation and Parole, the State Civil Service Commission, the State Horse Racing Commission, the State Harness Racing Commission, the Board of Arbitration of Claims, the Pennsylvania Securities Commission, the Pennsylvania Industrial Development Authority, the State Board of Education, the Board of State College and University Directors, the Board of Trustees of Pennsylvania State University, the Board of Trustees of the University of Pittsburgh, the Board of Trustees of Temple University, the Board of Trustees of Lincoln University, the Environmental Hearing Board, the Pennsylvania Crime Commission, the Pennsylvania Labor Relations Board, the Industrial Board, the Unemployment Compensation Board of Review, the Workmen's Compensation Appeals Board, the State Art Commission, the State Lottery Commission, the State Transportation Commission and the Pennsylvania Human Relations Commission.

(3) The first justice of the peace to serve a newly created magisterial district and a justice of the peace to fill a vacancy in such office in an existing magisterial district.

(4) Those members which he is authorized to appoint to the Delaware Valley Regional Planning Commission, the Pennsylvania Public Television Network Commission, the State Council of Civil Defense, the State Farm Products Commission, the Pennsylvania Housing Finance Agency, the Board of Trustees of each State College and University, the Board of Trustees of Scotland School for Veterans' Children, the Board of Trustees of Thaddeus Stevens Trade School, the State Conservation Commission, the Commonwealth of Pennsylvania Council on the Arts, the State Planning Board, the Pennsylvania Drug, Device and Cosmetic Board, the County Board of Assistance in each county, the State Board of Public Welfare, the Boards of Trustees of Centers, the Board of Trustees of

Eastern Pennsylvania Psychiatric Institute, the Board of Trustees of each Restoration Center, the Board of Trustees of each State General Hospital, the Board of Trustees of each State School and Hospital, the Board of Trustees of each State Hospital, the State Dental Council and Examining Board, the State Real Estate Commission, the State Registration Board for Professional Engineers, the State Boards of Examiners of Architects, Auctioneers, Nursing Home Administrators and Public Accountants, the State Boards of Barber Examiners, Chiropractic Examiners, Cosmetology, Funeral Directors, Medical Education and Licensure, Nurse Examiners, Optometrical Examiners, Osteopathic Examiners, Pharmacy, Physical Therapy Examiners, Podiatry Examiners, Veterinary Medical Examiners, Landscape Architects and Motor Vehicle Manufacturers, Dealers and Salesmen, the Pennsylvania Board of Psychologist Examiners, the State Athletic Commission, the Hazardous Substance Transportation Board, the Pennsylvania Higher Education Assistance Agency, the Pennsylvania Historical and Museum Commission, the State Tax Equalization Board, the Public School Employees' Retirement Board, the State Employees' Retirement Board, the Municipal Police Officers' Education and Training Commission, the Pennsylvania Nursing Home Loan Agency, the Crime Victims Compensation Board, the Consumer Advocate, and the Pennsylvania Minority Business Development Authority.

(5) The general officers in the Department of Military Affairs which he is authorized by law to appoint.

(6) All positions hereinafter statutorily created by amendment to this act or in any other act or amendment thereto for which Senate confirmation is specified but for which the advice and consent of two-thirds of the members elected to the Senate is not required.

(e) Notwithstanding the provisions of existing law providing for the extension of a term of office until a successor is appointed and qualified, for purposes of appointment under Article IV, section 8 of the Pennsylvania Constitution, for those offices requiring Senate confirmation by this section a vacancy requiring appointment or reappointment by the Governor shall exist upon the expiration of the number of years or time period specified for said office.

(f) A person, other than one serving until a successor is appointed and qualified, nominated by the Governor to a position for which Senate confirmation is required by this section shall not serve in such position nor receive any compensation for serving in such position until he has been confirmed by action of the Senate or by its inaction as provided by the Constitution of the Commonwealth of Pennsylvania and his appointment or commission thereafter issued by the Governor: Provided, however, That nothing contained in this section shall be construed to repeal or modify section 213 of this act: And provided further, That nothing in this act shall affect the right of an incumbent, whose term of office has expired, to continue in his office until his successor is appointed and qualified.

(g) Whenever the Governor shall nominate to fill a position for which Senate confirmation is required, he shall submit to the Senate with the nomination information on the nominee, including but not limited to his voting address, business address if any, employer, party registration, offices held in political parties during the past ten years, any public offices held during the past ten years, records of any criminal convictions, and such other information as is agreed upon by the Governor and the Senate Committee on Rules and Executive Nominations.

Section 3. The first paragraph of section 213 of the act, amended December 18, 1968 (P.L.1232, No.390), is amended to read:

Section 213. Deputies.—The **[head of any administrative department, except the Auditor General and the State Treasurer shall have the power, with the approval of the Governor, to appoint and fix the compensation of a deputy, or such number of deputies as the Executive Board shall approve,] Governor shall appoint and fix the compensation of such number of deputy heads of administrative departments, except those of the Department of Auditor General and Treasury Department, as the Executive Board shall approve,** who shall, in the absence of the head of such department, have the right to exercise all the powers and perform all the duties by law vested in and imposed upon the head of such department, except the power to appoint **[deputies,]** bureau or division chiefs, or other assistants or employes, and who may, at any time, exercise such of the powers and perform such of the duties of the head of his department as may be prescribed by the head of his department: Provided, however, That any such deputy shall not have the right to exercise any power or perform any duty which the Constitution of the Commonwealth of Pennsylvania requires the head of his department personally to exercise or perform.

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Section 4. The provisions of this amendatory act shall be severable. If any provision of this amendatory act or its application to any person or circumstance is held invalid, the remainder of the act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

Section 5. All provisions of this act and other acts inconsistent with this amendatory act are hereby repealed.

Section 6. This act shall take effect immediately and shall be applied as follows:

No Senate confirmation shall be required of appointments made by the Governor to fill vacancies in those positions hereinbefore created for which Senate confirmation is not required by section 207.1.

APPROVED—The 8th day of November, A. D. 1976.

MILTON J. SHAPP