

No. 1980-146

AN ACT

SB 489

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," further providing for examinations to be administered by the professional and occupational examining boards; providing for approval or disapproval of regulations by the Legislature; further providing for revenue estimates and providing for the lapsing of funds.

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

Section 1. The act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," is amended by adding sections to read:

Section 618.1. Revision of Revenue Estimates.—*Notwithstanding any other provisions of this act to the contrary, the Department of Revenue, in conjunction with the Secretary of the Budget may, within sixty days of the effective date of this amendatory act, revise the official revenue estimate for the Commonwealth to account for additional revenues anticipated to be generated by actions taken and finalized prior to such revision by any agency of the executive branch on increasing regulatory fee rates and by any independent agency not under the direct control of the Governor on revising pricing policies or anticipated transfer of retained earnings.*

Section 621. Lapsing of Funds.—(a) *As used in this section:*

"Contingent commitment." An authorization made by proper authority for a spending agency to commit moneys from an appropriation which has not as yet been made by the General Assembly. It is contingent upon the eventual passage of an appropriation for the purpose and money may not be paid out or goods or services delivered until such an appropriation has been made.

"Contracted repairs." All contracted repairs to buildings, grounds, roads, fixed and movable equipment and furniture, excluding

maintenance and repair work performed by State employes. Repairs are defined as costs which will restore the asset to that condition which will permit the effective use of the asset up to but not beyond its previously determined useful life.

“Fixed assets.” Includes as machinery, equipment or furniture those articles which meet the following two general criteria:

(1) Those items that can be expected to have a useful life of more than one year.

(2) Those items that can be used repeatedly without materially changing or impairing their physical condition and that can be kept in serviceable condition by normal repair, maintenance or replacement of components.

Also included in this major category of expenditure are: livestock, game and poultry purchased primarily for farm stock, breeding or similar use, land acquisitions, acquisitions of buildings and structures, capital improvements to buildings and structures and nonstructural improvements.

“Grants and subsidies.” Includes all payments made by the State to political subdivisions, individuals, institutions and organizations for which no direct services are rendered to the State. Also included are: awards, bounties and indemnities.

“Major categories of expenditure.” Fixed assets, operational expenses and personnel services.

“Operational expenses.” Includes the cost of commodities, substances or manufactured articles which are used or consumed in current operation or processed in the construction or manufacture of articles. Supplies also include minor equipment, expendable tools and other articles not meeting the criteria for machinery and equipment set forth in the definition of “fixed assets.” This major category of expenditure also includes services performed by State or outside agencies which may include the use of equipment or the furnishing of commodities in connection with these services under express or implied contracts.

“Personnel services.” The cost of salaries and wages, including the State’s share of payroll taxes and employe benefits, paid State officials and employes for services rendered and for State annuitants.

“Purchase order.” A written document authorizing delivery of specified items or the rendering of certain services and the incurrence of a charge for them.

“Purchase requisition.” A written request to the purchasing officer, usually of a central supply agency, for the purchase or delivery of specified items or services.

(b) All actions relating to the encumbering of funds shall be supported by complete documentation including a detailing of methods used to estimate a year-end encumbrance. Purchase orders shall have a specified delivery date. Delivery of goods and services encumbered in one fiscal year shall be made by August 31 of the following fiscal year, except as otherwise herein provided.

(c) Payments for personnel services shall be charged to the fiscal year in which the expense was incurred or the liability accrued.

(d) Payments for operational expenses and grants and subsidies shall be charged as follows:

(1) Purchases of supplies and services other than specifically provided herein shall be charged to the fiscal year in which the actual expenses or commitment to purchase was incurred. Contracted services, consultant fees and rentals, excluding General State Authority rentals, shall be prorated between fiscal years.

(2) Payment of the cost of contracted repairs shall be charged to the fiscal year in which the obligation was incurred.

(3) Payments of grants and subsidies and reimbursements for services provided or costs incurred by other government units, institutions, and individuals shall be charged to the fiscal year in which funds were appropriated, allocated for the purpose by the Budget Secretary and obligated.

(4) Except as hereinafter provided, no encumbrance for operational expenses and grants or subsidies shall be made after May 31 in the fiscal year to which the encumbrance is charged.

(5) Encumbrances made because of purchase orders or because of an emergency that threatens the continued operation of government or the health, safety or lives of the citizens of the Commonwealth may be created subsequent to May 31. If a purchase order is executed subsequent to June 15, a contingent commitment shall be established to insure the payment of the bill.

(6) Outstanding prior year encumbrances charged to operational expenses or subsidies and grants shall be reviewed not later than August 31 of the current fiscal year. At that time they shall be cancelled and the funds shall lapse unless extended because of the material shortages, delays in production schedules, strikes, arbitration, inspections, audits, acts of nature, or litigation upon complete justification of the agency with the concurrence of the agency controller.

(e) Fixed assets shall be charged as follows:

(1) Purchase or cost of fixed assets shall be charged to the fiscal year in which funds for this purpose are allocated by the Budget Secretary.

(2) Except as hereinafter provided, no encumbrance for fixed assets shall be made after February 28 in the fiscal year to which the encumbrance is charged.

(3) Encumbrances for fixed assets made because of purchase orders or because of an emergency that threatens the continued operation of government, or the health, safety, or lives of the citizens of the Commonwealth may be created subsequent to February 28. If a purchase order is executed subsequent to April 30, a contingent commitment shall be established to insure the payment of the bill unless delivery is expected prior to June 30.

(4) Encumbrances for fixed assets made because of a purchase order subsequent to April 30 shall be automatically cancelled and the funds lapsed if delivery is not made prior to June 30.

(5) Outstanding prior year encumbrances charged to fixed assets shall be reviewed not later than September 30 of the current fiscal year. At that time they shall be cancelled and the funds lapsed unless extended because of material shortages, delays in production schedules, strikes, arbitration, inspections, audits, acts of nature, or litigation upon complete justification of the agency with the concurrence of the agency controller.

(f) Outstanding prior year encumbrances extended in accordance with the provisions of this act shall be automatically cancelled as of October 31, excepting encumbrances for items being litigated or arbitrated.

(g) Nothing shall preclude an agency from encumbering funds from the current fiscal year to pay for a prior year's encumbrance which was cancelled under subsection (c), (d), (e) or (f).

(h) Balances due to liquidation or cancellation of prior year encumbrances shall be lapsed. These funds shall not be transferred to any other major or minor category of expenditure and may not be used to create any new obligation.

(i) Moneys from liquidation or cancellation of prior year encumbrances shall be lapsed by the end of the subsequent month in which the encumbrance was liquidated or cancelled, or earlier at the discretion of the Budget Secretary. Except as a result of litigation, in no case shall an encumbrance be held for more than the next complete subsequent fiscal year.

(j) In no case shall there be a transfer of funds from an encumbrance in one major category of expenditure to an encumbrance in another major category of expenditure.

(k) All deadlines for creating encumbrances shall be extended when the encumbrances apply to an appropriation received after the deadlines stated herein.

(l) In no case shall an encumbrance be created after June 30 of the fiscal year in which the moneys were appropriated.

(m) The Secretary of the Budget shall have the power to waive any of the provisions included in section 621 upon written request of an agency justifying an exception to these provisions which is in the best interests of the Commonwealth. When the Secretary of the Budget decides to approve an agency request for a waiver of these provisions, he shall submit the agency request along with his own written analysis and justification for the waiver of these provisions to the respective Chairmen of the Majority and Minority Appropriations Committees in the House of Representatives and the Senate allowing a reasonable time for their review and comment.

Section 812.1. Administration of Examinations.—

(a) All written examinations shall be prepared and administered by a qualified and approved professional testing organization under contract to the appropriate board or commission within the Bureau of Professional and Occupational Affairs and approved by the appropriate board or commission, except that where the particular professional and occupational statutes permit the use of national uniform examinations and/or grading services, these examinations and grading services may continue to be used. No board or commission member shall have a financial interest in a professional testing organization. This section shall not apply to any oral, practical or other nonwritten examination which may be required by a board or commission.

(b) Each board or commission shall have the discretionary power to charge a fee for the administration of and cost of each examination. The purpose of this fee is to insure that the applicants' fees cover the entire cost of the examination. This fee shall be in addition to any fee imposed pursuant to the act of July 1, 1978 (P.L.700, No.124), known as the "Bureau of Professional and Occupational Affairs Fee Act."

(c) Cost is defined as all contractual charges relating to the preparation, administration, preparing, administering, grading and recording of the examination.

(d) Nothing herein shall preclude an additional fee for first licensure where such is provided by law.

(e) Each board and commission within the Bureau of Professional and Occupational Affairs shall promulgate the necessary rules and regulations in order to carry out the provisions of this act.

(f) The Bureau of Professional and Occupational Affairs shall issue a report each year to each board and commission. The report shall contain a statement of all fees, fines and other moneys collected and all disbursements made.

Section 812.2. Legislative Approval or Disapproval; Effect.—A copy of every rule or regulation or amendment to a rule or regulation proposed by the Bureau of Professional and Occupational Affairs or any board or commission thereunder in order to implement any provision of section 812.1 shall before adoption be forwarded to the Speaker of the House of Representatives and to the President pro tempore of the Senate for referral to and review by the appropriate standing committee of the House of Representatives and of the Senate as determined by the respective presiding officer. The standing committee shall, within sixty days from the receipt of such proposed rule, regulation or amendment approve or recommend disapproval to the House of Representatives or the Senate of any such proposed rule, regulation or amendment. Failure of the standing committee to recommend disapproval and of the House of Representatives and Senate to disapprove any proposed rule, regulation or amendment within the review time shall constitute approval thereof. If the standing commit-

tees of both the Senate and the House of Representatives recommend disapproval and the House of Representatives and the Senate disapproves any proposed rule, regulation or amendment, the bureau, board or commission shall not adopt the proposed rule, regulation or amendment and it shall not be again offered for one year. Only in the absence of a disapproval the bureau, board or commission shall proceed with the adoption of the rule, regulation or amendment in accordance with section 202 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law. be submitted to the Secretary of the Senate and the Chief Clerk of the House of Representatives who shall cause the rules or regulations to be printed and distributed among all members of both chambers in the same manner as a reorganization plan. If both bodies fail to act within sixty days of receipt of such rules or regulations, or within ten legislative days after receipt, whichever shall last occur, rules or regulations adopted by the appropriate professional or occupational board, or the Bureau of Professional and Occupational Affairs shall be promulgated pursuant to the provisions of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law and 45 Pa.C.S. Part II (relating to publication and effectiveness of Commonwealth documents). If either chamber disapproves any rule or regulation, such information shall be certified by the Speaker of the House of Representatives or President pro tempore of the Senate to the appropriate professional or occupational board, or the Bureau of Professional and Occupational Affairs, and such rule or regulation shall not be promulgated as a final rule or regulation.

Section 2. This act shall take effect immediately.

APPROVED—The 8th day of October, A. D. 1980.

DICK THORNBURGH