

No. 1980-244

AN ACT

HB 2907

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 the compensation of the Governor, Lieutenant Governor and the heads of departments, providing for compensation of comptrollers, for the powers of the Governor, for rental of real estate owned by the Commonwealth, for no-bid contracts and for certain purchases in the open market by increasing the cost of such purchases, establishing the Office for Procurement Information and requiring copies of certain contracts to be furnished to the State Treasurer.

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 a section to read:

Section 209. Compensation of the Governor, Lieutenant Governor and the Heads of Departments.—The annual salaries of the Governor, Lieutenant Governor and the heads of departments shall be payable in equal semimonthly installments, as follows:

<i>Governor</i>	<i>\$75,000</i>
<i>Lieutenant Governor</i>	<i>57,500</i>
<i>Secretary of Commonwealth</i>	<i>48,000</i>
<i>Secretary of Education</i>	<i>55,000</i>
<i>Adjutant General</i>	<i>48,000</i>
<i>Insurance Commissioner</i>	<i>48,000</i>
<i>Secretary of Banking</i>	<i>48,000</i>
<i>Secretary of Agriculture</i>	<i>48,000</i>
<i>Secretary of General Services</i>	<i>51,500</i>
<i>Secretary of Environmental Resources</i>	<i>55,000</i>
<i>Secretary of Transportation</i>	<i>55,000</i>
<i>Secretary of Health</i>	<i>51,500</i>
<i>State Police Commissioner</i>	<i>51,500</i>
<i>Secretary of Labor and Industry</i>	<i>51,500</i>

<i>Secretary of Public Welfare</i>	<i>55,000</i>
<i>Secretary of Revenue</i>	<i>51,500</i>
<i>Secretary of Commerce</i>	<i>48,000</i>
<i>Secretary of Community Affairs</i>	<i>48,000</i>
<i>Secretary of Aging</i>	<i>51,500</i>

Neither the Governor, Lieutenant Governor nor the head of any administrative department shall receive any additional compensation for any services rendered to the Commonwealth in any capacity.

Section 2. Section 214 of the act, amended August 21, 1953 (P.L.1329, No.374) and December 18, 1968 (P.L.1232, No.390), is amended to read:

Section 214. Employment and Compensation of Directors, Bureau Chiefs, and Other Employes.—Except as otherwise provided in this section and in the Civil Service Act, the heads of the several administrative departments, except the Auditor General and the State Treasurer, and the independent administrative boards and commissions, shall appoint and fix the compensation of such directors, superintendents, bureau or division chiefs, assistant directors, assistant superintendents, assistant chiefs, experts, scientists, engineers, surveyors, draftsmen, accountants, secretaries, auditors, inspectors, examiners, statisticians, marshals, clerks, stenographers, bookkeepers, messengers, and other assistants and employes as may be required for the proper conduct of the work of their respective departments, boards, or commissions. Except as otherwise provided in this act, the heads of the respective administrative departments shall appoint and fix the compensation of such clerks, stenographers, and other assistants, as may be required for the proper conduct of the work of any departmental administrative bodies, boards, commissions, or officers, and of any advisory boards or commissions established in their respective departments.

The Governor shall have the power and authority to appoint and fix the compensation of a comptroller in each administrative department, except the Department of the Auditor General and the Treasury Department, and in each independent administrative board and commission, together with all accountants, auditors, clerks, stenographers, bookkeepers, and other assistants and employes, as may be required for the proper conduct of the work of the comptroller in such department, board or commission. All comptrollers and other related employes so appointed shall succeed to the functions and duties of the respective comptrollers and related employes theretofore appointed by the heads of such departments, boards and commissions, and shall be under and subject to the direct regulation, supervision and control of the Governor or such employe in his office as he may designate for that purpose. The compensation of all comptrollers and other related employes shall be paid out of appropriations made [to the respective departments, boards or commissions in which they exercise their functions and duties] *for this purpose.*

Except as otherwise provided in this section and in the Civil Service Act, the number and compensation of all employes appointed under this section shall be subject to the approval by the Governor, and, after the Executive Board shall have fixed the standard compensation for any kind, grade, or class of service or employment, the compensation of all persons in that kind, grade, or class, appointed hereunder, shall be fixed in accordance with such standard.

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

Section 478. Office for Procurement Information.—(a) *There is hereby established an administrative office under the direction of the Governor to be known as the Office for Procurement Information for the purpose of providing businesses operating in Pennsylvania with a central office where information pertaining to the Commonwealth's procurement needs may be obtained.*

(b) *All requests for bids or proposals which are issued by any department, council, commission, board, authority, or similar agency of the Executive Branch of State Government, and which involve the expenditure of moneys in the amount of five thousand dollars (\$5,000) or more, from the Commonwealth General Fund or Motor License Fund or the moneys appropriated under the Federal Augmentation Appropriation Act shall be transmitted to the office hereby created, prior to official publication of said information. The office shall categorize the information by department and agency, dollar amount, and other relevant factors, and make such information available for public inspection and copying during normal business hours; the office is empowered to assess a reasonable charge for photocopying such information. No moneys may be expended from either the General Fund or the Motor License Fund or the moneys appropriated under the Federal Augmentation Appropriation Act under contract or to a vender unless the information required to be transmitted to the office was available for public inspection at least fifteen days prior to official publication of said requests.*

(c) *Notwithstanding, the requirements of the provisions of this section may be waived upon a determination by the Governor, and issuance of an order, to the effect that an emergency situation exists or is about to exist which threatens the interests of the safety and welfare of the citizens of the Commonwealth, and that compliance with the provisions of this section must be suspended in order to protect the citizens from that emergency. Compliance with the provisions of this section shall recommence upon a determination and issuance of an order by the Governor that the emergency situation has been sufficiently ameliorated.*

(d) *The Governor shall select a director who shall serve at the pleasure of the Governor. The director shall be empowered to staff and direct the operations of the office. The salary of the director shall be fixed by the Executive Board in accordance with the guidelines pertaining to the salaries of other personnel in the administrative branch.*

(e) The office created by this section shall expire on June 30, 1983, unless reestablished by the General Assembly.

Section 4. Clause (i) of section 701 of the act, amended April 24, 1947 (P.L.120, No.45), is amended to read:

Section 701. The Governor.—The Governor shall have the power and it shall be his duty:

* * *

(i) To do all other acts, make all appointments, fill all vacancies, exercise all the powers vested in him, and perform all the duties imposed upon him, as provided and required by the Constitution and laws of this Commonwealth: Provided, however, That whenever the Governor is authorized or required by law to sign or approve any plans, agreements, contracts, bonds or any official documents, he may in his discretion, ***authorize another person or other persons to approve such documents as specified in his stead, and may substitute or direct to be substituted in lieu of his signature or as evidence of his approval, a facsimile signature, which shall have the same force and effect as his personal signature.***

* * *

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

Section 1104. Copies of Contracts to be Furnished to the State Treasurer.—(a) Whenever any department, board, commission, agency, instrumentality, authority or institution of the Commonwealth shall enter into any contract involving any property, real, personal or mixed of any kind or description or any contract for personal services where the consideration involved in said contract is five thousand dollars (\$5,000) or more, a copy of said contract shall be furnished to the Treasury Department within ten (10) days after the contract is executed on behalf of the Commonwealth or otherwise becomes an obligation of the Commonwealth.

(b) Every contract filed pursuant to subsection (a) shall remain on file with the Treasury Department for a period of one year or until all disbursements have been made on the contracts, whichever is longer and shall be made available for public inspection and copies made available at cost to any individual who requests them.

Section 6. Clause (i) of section 2402 of the act, amended August 6, 1963 (P.L.519, No.275), is amended to read:

Section 2402. Grounds, Buildings and Monuments in General.—The Department of General Services shall have the power, and its duty shall be:

* * *

(i) To rent to individuals, firms or corporations, or the Government of the United States or any branch or agency thereof, such real estate, owned by the Commonwealth, as is not being used in connection with the work of any department, board, or commission thereof, upon such terms and conditions as the Secretary of **[Property and Supplies]** *General Services* may prescribe, with the approval of the

Governor in writing: Provided, however, That no lease executed under the authority hereby conferred shall be for a longer term than **[one year and so on from year to year] five years**, except that State owned airports, or any part of the facilities thereof, may be leased for terms not longer than twenty years when the lessee proposes to make a major capital investment in the construction or purchase of facilities at said State owned airport, or for five years in other cases, and except leases made in the interest of national defense to the Government of the United States or any branch or agency thereof, which leases may be for such terms as are approved by the Governor.

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Section 7. Section 2409 of the act, amended June 21, 1937 (P.L.1865, No.373), is amended to read:

Section 2409. Method of Awarding Contracts for Stationery, Paper, Fuel, Repairs, Furnishings, and Supplies.—(a) The Department of **[Property and Supplies] General Services** shall notify the Governor, the several administrative departments, the independent administrative, departmental administrative, and advisory boards and commissions, the chief clerks of the Senate and House of Representatives, and the proper officers of the judicial department, respectively, to furnish, at such times as the Department of **[Property and Supplies] General Services** may require, lists of all equipment, furniture and furnishings, stationery, supplies, repairs, alterations, improvements, fuel, and all other articles that may be needed by their respective departments, boards, or commissions, or the Senate, or the House of Representatives, for such periods as the Department of **[Property and Supplies] General Services** shall prescribe, excepting only perishable foodstuffs for State institutions and repairs or alterations which are not to be made by the Department of **[Property and Supplies] General Services**.

(b) Upon receipt of such lists, the Department of **[Property and Supplies] General Services** shall, as far as practicable, consolidate, and classify the articles named therein, taking care that there shall be full descriptions given, with make and number of goods when possible, and proper maximum price fixed, and shall prepare annual, semiannual, or quarterly schedules thereof, as deemed for the best interests of the Commonwealth. Whenever deemed necessary, it shall have plans, designs, and specifications prepared of any equipment, furniture or furnishings, repairs, alterations and improvements, paying for the preparation of the same out of the funds appropriated to the department.

(c) The department shall state in the schedules that the work or articles for which the plans, designs, and specifications are prepared, are to be done or furnished in accordance therewith, and that the plans, designs, or specifications will be found in its office for inspection, and copies of the same shall be furnished to the successful bidders. The schedules shall state that bids will be received on one or

more of the items of any classification of the schedules. In such schedules, the form of proposal shall be given, and all other information which the department shall consider necessary for the bidder. In preparing the lists or schedules, the department shall, in all cases, give preference to goods of American production or manufacture. The quantities given in the schedules shall be the estimated maximum quantities that are likely to be required during the term of contract, but the schedules, shall, in all cases, provide that the goods shall be furnished in greater or less quantity, and at such times, as the needs of the departments, boards, commissions, and the Senate and House shall require.

(d) The schedules shall also provide, whenever practicable, a per diem penalty or forfeiture, after a stated time, for the failure of a contractor to finish or furnish the work or materials contracted for, which penalty or forfeiture shall be deducted by the Auditor General from the amount of the contractor's bill, before settlement is made, when so directed to do by the department.

(e) The department, after conferring with the heads of the various departments, boards, commissions, and the chief clerks of the Senate and House, shall have the power to make such changes in the schedules as may be deemed proper, and may standardize any or all articles therein. When the schedules have been finally prepared, they shall be prepared in such form as the department shall deem advisable, and shall be the schedules of stationery, paper, supplies, fuel, equipment, furniture, furnishings, repairs, alterations, improvements and other matters and things needed for the public grounds and buildings, the Senate and House of Representatives, the several departments, boards, and commissions of the State Government, and the Executive Mansion.

(f) The department shall, not less than six weeks prior to the termination of schedule contracts now existing or that may be made in the future, advertise the opening of bids for the annual, semiannual, or quarterly schedules, by advertising inserted, for at least three days, the first and last publication to be at least ten days apart, in not less than six or more than twelve newspapers of extensive general circulation in different parts of the Commonwealth, not more than three of which shall be published in any one county, invite sealed proposals for contracts to furnish all stationery, supplies, paper, and fuel, used by the Senate and House of Representatives, the several departments, boards, and commissions of the State Government, and the Executive Mansion, and for repairing, altering, improving, furnishing or refurnishing, and all other matters or things required for the public grounds and buildings, legislative halls and rooms connected therewith, the rooms of the several departments, boards, and commissions, and the buildings connected with the State Capitol and the Executive Mansion. The advertisement shall contain a reference to the schedules so prepared by the department, and, as briefly as practicable, invite

bids for the furnishing of articles named in the schedules, and give notice of the time and place where such bids will be received, and when they will be opened.

(g) All proposals shall be delivered to the department on or before the hour designated in the proposal, on the day set by the department, following the date of the last advertisement, and each bid shall be in duplicate, one of which shall be marked "Duplicate Bid." Each bid, together with the proper certified or bank check as provided for in this act, shall be enclosed in an envelope, securely sealed, and shall be mailed or delivered to the department, which shall retain all envelopes unopened until the time fixed for the opening thereof.

(h) The department shall, on the date fixed for opening of bids, at the hour designated in the proposal, open and publish said proposals, and, as soon thereafter as practicable, award the contracts to the lowest responsible bidder, on each of the items of the several classifications of the schedules. The department shall have the right to reject any or all bids. The bids, when opened, shall be tabulated and shall be subject to examination by bidders. A record of all bids shall be made by the department, in a book kept for that purpose.

(i) When no proposal has been received, or, if for any reason the department shall reject all proposals, the department shall advertise again for proposals, giving at least fifteen days' notice of the time of receiving the same, which proposals shall be opened, awarded and approved in like manner as heretofore provided.

(j) Except as hereinafter provided, no proposal for any contract shall be considered unless such proposal is accompanied by a certified or bank check, to the order of the State Treasurer, in one-fourth the amount of the estimated contract, or by a bond in such form and amount as may be prescribed by the department. Any such bond shall be conditioned for the faithful performance of the terms of the contract, if awarded, and shall have as surety one surety company authorized to act as surety in this Commonwealth, or two individual sureties approved by the Department of Justice.

(k) A bidder, who shall have accompanied his proposal with a certified or bank check as aforesaid, and to whom a contract shall have been awarded, may, within ten days after such award, substitute for said check a bond as herein prescribed, otherwise said check shall be retained in lieu of a bond.

(l) The department may, in its discretion, permit a bidder to file a bond for an annual period, to cover proposals that may be made from time to time by such bidder during such period. Such bond shall be in such amount as the department may determine, and may be increased from time to time as the department may require, in order to keep the same commensurate with proposals made from time to time by such bidder during such period. Any such bidder to whom a contract shall have been awarded shall, within ten (10) days after such award, file a bond conditioned for the faithful performance of the terms of the contract.

(m) The department may, in its discretion, permit a bidder to file a bond to cover proposals made by and the performance of contracts awarded to any such bidder during an annual period. Such bonds shall be in such amount as the department may prescribe, and may be increased from time to time during the annual period by the department to keep the same commensurate with the contracts awarded to such bidder during such period.

(n) In the event that any contractor shall fail to fulfill or comply with the terms of any contract, such contract shall be awarded to the next lowest responsible bidder, and the department shall request the Department of Justice to bring suit against the failing contractor or his sureties to recover the loss sustained by the Commonwealth by the letting.

(o) All contracts awarded shall be severally void unless first approved by the Governor, the Auditor General, and the State Treasurer, and when so approved, together with all checks or bonds given for their faithful performance, be filed with the department, which shall keep a record of the same and shall, within twenty days after the award, certify copies of all said contracts to the Auditor General. The bonds and certified checks of all unsuccessful bidders shall be returned to such bidders as soon as practicable after contracts have been awarded and approved, but not later than sixty days after the date of opening the proposals.

(p) The enforcement of all contracts provided for by this act and of all similar contracts heretofore entered into and now in force shall be under the control and supervision of the department.

(q) The department shall receive from the contractor or contractors the articles mentioned in the schedules. Articles contracted for must be furnished promptly. It shall be the duty of the department to reject all articles not up to the standard required and, if a contractor shall fail to exchange them for articles that meet the requirements prescribed, or shall fail to deliver any article within a reasonable time, the department may go into the open market and purchase articles to take the place of those adjudged to be of inferior quality or which have not been delivered, and deduct the expense, including any excess in price over that called for in the contract, from the amount due the contractor from the Commonwealth. If the amount due said contractor is not sufficient to meet such expenses and excess price paid for the articles purchased, the department may proceed against the contractor or his sureties, under the bond aforesaid, by proper action through the Department of Justice.

(r) In all cases where a lump sum contract, containing a provision for partial payments, on account of materials delivered and work done, is entered into by the department, a percentage, to be fixed by the department, of the amount due, as set forth in the contract, shall be withheld from the contractor by the Auditor General, until the department shall certify that the contract has been fully complied with.

(s) The department, except in those cases where the department acts in the capacity of purchasing agent, shall examine all bills on account of contracts entered into under the provisions of this section, and, if they are correct, the department shall certify that the materials have been furnished, or that the work or labor has been performed, in accordance with the contract and approve the bills. When so approved, the bills shall be audited, settled, and paid by the Auditor General and State Treasurer, in the manner provided by law.

(t) It shall be the duty of the department, when the articles named in the schedules are received from the contractors, to care for them properly in storage rooms, and the department shall be held responsible for their safekeeping.

(u) The Board of Commissioners of Public Grounds and Buildings shall provide suitable storage rooms for the furniture, stationery, supplies, and fuel that may be procured.

(v) Whenever the Governor, the heads of departments, the executive officers of independent administrative boards and commissions, the chief clerks of the Senate and House of Representatives, or the proper officers of the judicial department, shall require any portion of the stationery, supplies, fuel, furniture, furnishings, repairs, alterations, improvements, and other matters or things, appearing in the schedules, for which contracts have been awarded by the board, a requisition, giving number and description of the item needed, shall be made on the department, which shall cause the article to be delivered, taking a proper receipt therefor.

(w) Whenever any administrative department or any independent administrative or departmental administrative board or commission, shall call upon the department to purchase for it, as purchasing agency, any article named in the schedules, if the department has such article on hand, it may deliver the same to such department, board, or commission, and forthwith bill such department, board, or commission, for the cost of the same, such bill to be paid for out of the appropriation available to the department, board, or commission, for the purchase of the article.

(x) In the event that requisitions are made upon the department for any article of furniture, furnishing, stationery, supplies, fuel, or any other matter or thing, the want of which was not anticipated at the time of the making of the schedules, the department may, in its discretion, invite proposals from at least two responsible bidders, unless the article can be procured from only one source, and, when one proposal shall be invited, such proposal or proposals, together with such requisition or requisitions, shall be submitted to the Board of Commissioners of Public Grounds and Buildings for approval or disapproval: Provided, however, That the department may, in its discretion, purchase in the open market, without inviting any proposal, any such article costing less than **[fifty dollars] three hundred dollars**, but all such purchases shall be reported to the Board

of Commissioners of Public Grounds and Buildings at its next meeting.

(y) Whenever any contract for the furnishing of materials for use in the construction or maintenance of highways exceeds five hundred dollars (\$500.00) in amount, and includes the performance of labor or the use of other materials in the delivery of such material to the site of the work or in the incorporation thereof into the completed structure, the Department of **[Property and Supplies]** *General Services* shall require the contractor to furnish an additional bond, conditioned for the payment of labor and materials in the same manner as is required by paragraph (h) of section two thousand four hundred and eight of the Administrative Code, to which this act is an amendment.

Section 8. (a) Section 13, act of June 1, 1956 (1955 P.L.1959, No.657), referred to as the Public Official Compensation Law, is repealed insofar as it is inconsistent herewith.

(b) The reports of the Commonwealth Compensation Commission for 1972 and 1976 are repealed insofar as they are inconsistent herewith.

Section 9. This act shall take effect immediately and the amendment to section 209 shall apply to the officers enumerated therein who shall assume office thereafter as permitted by the Constitution of the Commonwealth of Pennsylvania.

APPROVED—The 19th day of December, A. D. 1980.

DICK THORNBURGH