
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 591 Session of
1961

INTRODUCED BY MESSRS. WEINER AND LANE, MAY 1, 1961.

REFERRED TO COMMITTEE ON JUDICIARY GENERAL,
MAY 1, 1961.

AN ACT

Providing for the adjudication of contract claims against the Commonwealth the establishment of a board to hear such claims powers and duties of the board and salaries of its members the procedure to be followed by the board the consent of the Commonwealth to be sued upon contract claims court appeals and making an appropriation

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

EXPLANATION—CAPITAL LETTERS indicate new matter added to bill. Matter stricken through is to be omitted from bill. Underscoring indicates new matter added to existing law. [Brackets] indicate matter stricken from existing law.

1 Section 1 Short Title This act shall be known as the "Common-
2 wealth Contract Claims Act"

3 Section 2 Purpose The purpose of this act is to provide a speedy
4 and effective method of determining claims against the Commonwealth
5 arising out of contract and to consolidate the handling of such claims
6 within one agency

7 Article I The Board

8 Section 101 There is hereby created in the Department of the
9 Auditor General an independent administrative board known as the
10 Board of Contract Claims The board shall consist of three members
11 appointed by the Governor with the advice and consent of two-thirds
12 of the members of the Senate The term of each member shall be six
13 years commencing with the appointment and qualification of such mem-
14 ber provided however that the terms of the original members shall be
15 one two and three years respectively so that no two members who are
16 first appointed shall serve for the same number of years All members
17 appointed subsequent to the expiration of the terms of an original
18 member shall be appointed for terms of six years Any individual chosen
19 to fill a vacancy occurring during a term shall be appointed only for
20 the unexpired term of the member whom he is to succeed Whenever

1 the office of any member shall become vacant for any reason prior to
2 the expiration of the term for which he was appointed a successor
3 shall be appointed for the unexpired term in accordance with the pre-
4 ceding sentence Notwithstanding any provision of any law to the con-
5 trary a member of the board shall hold over and continue to discharge
6 the duties of his office after the expiration of the term for which he
7 shall have been appointed until his successor shall have been duly
8 appointed and qualified

9 The chairman of the board shall be that member of the board
10 whose term last expires provided however that no member shall be
11 chairman more than once unless the remaining members have all served
12 as chairman

13 The Governor may remove any member of the board at any time
14 At least one member of the board shall be an attorney admitted
15 to practice in the Supreme Court of this Commonwealth and at least
16 one member shall be a registered civil engineer

17 Section 102 No member of the board during his term of office
18 shall hold any other office or public trust to which any salary or com-
19 pensation is attached

1 Each member of the board shall receive annual compensation of
2 eleven thousand dollars (\$11,000.00) except the chairman who shall
3 receive annual compensation of eleven thousand five hundred dollars
4 (\$11,500.00) Each member shall also receive all necessary traveling
5 and other expenses incurred by him in the discharge of his official duties
6 elsewhere than in Harrisburg Each member for the purposes of the
7 State Employees' Retirement System shall be considered a State employe

8 Section 103 The board shall appoint an executive secretary The
9 board shall have the power to and may at its pleasure appoint such
10 employes including lawyers engineers and stenographers as are needed
11 in the proper exercise of its functions The executive secretary and
12 each employe of the board for the purposes of the State Employees'
13 Retirement System shall be considered a State employe

14 The executive secretary and any employe of the board shall receive
15 all necessary traveling and other expenses incurred in the discharge
16 of his official duties elsewhere than in Harrisburg The board shall meet
17 and its office shall be in Harrisburg but it may conduct hearings else-
18 where in the Commonwealth at such times as it deems necessary

19 No charge shall be made against the Commonwealth for copies
20 of notes of testimony or other papers furnished to the Commonwealth

1 The claimant or any other party shall pay the board at such rates
2 as the board may by rule determine for copies of notes of testimony
3 furnished at the request of the claimant or any other party

4 Section 104 The board shall be open throughout the year and
5 shall maintain a docket of all claims presented to it The docket shall
6 be kept by the executive secretary who shall consecutively number
7 the claims The docket shall set forth all necessary information as to
8 the disposition of any claim The styling of the caption on all papers
9 filed with the board shall refer to the claimant as petitioner and to
10 the Commonwealth as respondent

11 Section 105 The board may hear and determine any claim over
12 which it has jurisdiction Two members of the board shall constitute
13 a quorum

14 Article II Jurisdiction and Powers

15 Section 201 Unless the contract otherwise provides the Common-
16 wealth hereby consents to be sued in the manner provided for in this
17 act in the Board of Contract Claims in any case arising from an express
18 written contract between the Commonwealth and a claimant or from
19 a contract implied in fact between such parties Nothing herein shall
20 be construed to confer jurisdiction on the board to entertain or adjudi-

1 cate any claim against an instrumentality of the Commonwealth which
2 properly may sue or be sued in its own name nor shall the board have
3 jurisdiction in any case involving an issue relating to tax liability of
4 any claimant Further the board shall not have jurisdiction to entertain
5 hear and determine any claim for workmen's compensation or unem-
6 ployment compensation or any claim under the Pennsylvania Occupa-
7 tional Disease Act

8 Section 202 Any claimant who submits a claim to the board shall
9 be deemed to have consented to the jurisdiction of the board for the
10 purposes of any set-off counter-claim or any other demand arising out
11 of the same transaction which the Commonwealth may have against
12 the claimant

13 Section 203 The Board of Contract Claims shall have power

14 (1) To hear and determine all matters now pending before any
15 board arising out of a contract pursuant to which a claim is asserted
16 against the Commonwealth

17 (2) To subpoena witnesses and documents within the Common-
18 wealth to order their production and to compel witnesses to testify

1 (3) To order the interpleader or impleader of other parties when-
2 ever necessary for a complete determination of any claim or counter-
3 claim

4 (4) To provide for the perpetuation of testimony

5 (5) To establish rules for the governance of the board and the
6 regulation of practice therein and to prescribe the forms of procedure
7 before it in furtherance of the provisions of this act Such rules shall
8 however provide (i) for the filing of an answer by the Commonwealth
9 or any party interpleaded or impleaded within sixty days of the filing
10 of the statement of claim or the joinder of such party as the case may
11 be and (ii) for pre-hearing conferences designed to simplify the issues
12 between the parties and for such other purposes as the board deems
13 necessary The rules shall also provide that the board may in its discre-
14 tion permit the Commonwealth or a party interpleaded or impleaded
15 to amend its answer within such time as the board may allow

16 Section 204 The board shall have no power and exercise no juris-
17 diction over a claim asserted against the Commonwealth unless the
18 claim shall have been filed within one year after it has accrued

19 Article III Practice

20 Section 301 A claim shall be made by filing six copies of a state-

1 ment of claim with the executive secretary of the board one copy of
2 which shall be served on the Attorney General by the Executive Sec-
3 retary The statement of claim shall state the time when and the place
4 where the claim arose the nature of the claim the facts giving rise to
5 the claim the items of damages claimed to have been sustained and
6 the total sum claimed The statement of claim must have appended
7 thereto the contract upon which the claim is based or a copy thereof
8 if such contract is evidenced by a written document

9 The statement of claim shall be signed by the attorney represent-
10 ing the claimant In the absence of representation by counsel the indi-
11 vidual claimant shall sign the statement of claim or if the claimant be
12 a corporation partnership association or governmental subdivision the
18 statement of claim shall be signed by an officer of such claimant

14 Section 302 Parties interpleaded or impleaded shall be served with
15 an order of interpleader or joinder as the case may be in the manner
16 provided for service upon the Attorney General Within twenty days
17 from the time a party is so served he may file a claim against the
18 Commonwealth independently of the claim to which he has been made
19 a party Failing to do so he may not thereafter file such an independent

1 claim except by permission granted by order of the board after notice
2 to the Attorney General pursuant to the provisions of this act

3 Section 303 There shall be a charge of seventy-five dollars (\$75)
4 for the filing of every statement of claim where the amount of the
5 claim is five hundred dollars (\$500) or more There shall be a charge
6 of five dollars (\$5) for the filing of every statement of claim where
7 the amount of the claim is less than five hundred dollars (\$500) There
8 shall also be a charge of five dollars (\$5) for the filing of every other
9 pleading with the board No agency of the Commonwealth shall be
10 required to pay any filing fees

11 Section 304 In the event of the death of the claimant or of one
12 of the claimants named in a claim of any nature against the Common-
13 wealth heretofore or hereafter filed with the board and also in the
14 event that by assignment or by operation of law some person other
15 than the claimant named in the claim has succeeded to the interest of
16 one of the claimants named in such claim it shall be the duty of the
17 personal representative of said claimant or of the person who succeeded
18 the claimant in interest to said claim or any interest therein within
19 six months after he becomes vested with the title to said claim or any
20 interest therein to secure from the board and serve upon the Attorney

1 General an order substituting him as a party to said claim instead of
2 the party named in said claim to whose right title and interest he has
3 succeeded and in the event that he fails so to do the board on motion
4 of the Attorney General on such notice as the board may require to
5 all parties who have appeared in said action or proceeding or to the
6 assignee or successor of the claimant may dismiss said claim

7 Section 305 The board shall not be bound by technical rules of
8 evidence and all relevant evidence of reasonable probative value may
9 be received by it Reasonable examination and cross examination of
10 parties shall be permitted by the board

11 Section 306 If when any such claim is reached for disposition the
12 claimant without good cause fails to appear or is not ready to proceed
13 to the trial thereof the board in its discretion may proceed forthwith
14 to take proofs and testimony therein offered by the Commonwealth
15 or otherwise and may make an award in accordance therewith and
16 cause an order to be issued

17 Section 307 Orders for Payment and Payment Thereof

18 (a) The determination of a claim shall be contained in an order
19 issued by the board a copy of which shall be served upon the Common-
20 wealth the claimant and any other party to the proceedings

1 (b) A certified copy of an order of the board in favor of the Com-
2 monwealth against the claimant or any other party from which no
3 appeal has been taken or which has been sustained in whole or in
4 part upon appeal may be filed and docketed in the office of the pro-
5 thonotary of the court of common pleas of any county and enforced
6 in the same manner and have the same effect as a judgment

7 (c) An order against any claimant on any claim prosecuted as pro-
8 vided in this act shall forever bar any further claim or demand against
9 the Commonwealth arising out of the matters involved in the con-
10 troversy

11 (d) In any proceeding the board may in its order include costs
12 which may be assessed in whole or in part against the Commonwealth
13 the claimant or any other party to the proceeding Such costs shall be
14 limited to the filing fees provided for herein

15 (e) If any agency of the Commonwealth shall fail to file an answer
16 to a statement of claim the board shall in no event enter an order
17 against such agency unless the board shall have given the Attorney
18 General fifteen days' notice of its intention so to do

1 Article IV Appeals

2 Section 401 Within thirty days after the service of an order for
3 payment or an order denying a claim any party aggrieved thereby
4 including the Commonwealth shall have a right of appeal therefrom
5 Such appeal shall be taken to the Court of Common Pleas of Dauphin
6 County Parties interested in such an order including the Common-
7 wealth jointly severally or otherwise may join in an appeal therefrom
8 even though all of the interested parties do not join therein

9 Section 402 The court shall hear the appeal without a jury on
10 the record certified by the board After hearing the court shall affirm
11 the order unless it shall find that the same is not in accordance with
12 law The findings of the board as to the facts if supported by substan-
13 tial evidence shall be conclusive If the order is not affirmed the court
14 may set aside or modify in whole or in part or may remand the pro-
15 ceeding to the board for further disposition in accordance with the
16 order of the court

17 Section 403 Any party including the Commonwealth affected by
18 any decision of the court on an appeal from an order of the board may
19 within thirty days of the filing of such decision appeal to the Supreme
20 Court

1 Article V Matters Currently Pending

2 Section 501 All claims of the kind described in section 201 of
3 this act against the Commonwealth pending at the effective date of
4 this act either before the Board of Arbitration of Claims or before
5 the Auditor General and State Treasurer are hereby removed to the
6 Board of Contract Claims All claims of the kind described in section
7 201 of this act against the Commonwealth pending before the Board
8 of Finance and Revenue at the effective date of this act except matters
9 relating to taxation are hereby removed to the Board of Contract
10 Claims All claims before the Board of Arbitration of Claims removed
11 to the Board of Contract Claims shall be accompanied by a certified
12 statement of the reimbursable costs incurred which shall be immedi-
13 ately paid out of the appropriation to the Board of Contract Claims
14 Until the Board of Contract Claims is operative the salaried employes
15 of the existing Board of Arbitration Claims shall continue to function
16 for the purposes described in this section

17 Article VI Repeal

18 Section 601 The following acts and parts of acts and all amendments
19 thereof are repealed to the extent specified

1 (1) The act of March 30 1811 (P L 145) entitled "An act to
2 amend and consolidate the several acts relating to the settlement of
3 the public accounts and the payment of the public monies and for
4 other purposes" its amendments and supplements in so far as it relates
5 to the duties and powers of the Auditor General and State Treasurer
6 with respect to contract claims against the Commonwealth

7 (2) Sections 405 1001 1002 1003 and 1004 of the act of April 9
8 1929 (P L 343) known as "The Fiscal Code" in so far as they refer
9 to the settlement of contract claims against the State

10 (3) The act of May 20 1937 (P L 728) entitled "An act provid-
11 ing for the creation of a Board of Arbitration of Claims arising from
12 contracts with the Commonwealth providing for and regulating the pro-
13 cedure in prosecuting claims before such board defining the powers of
14 the board and fixing the compensation of members and employes thereof
15 providing that the awards of such board shall be final providing for
16 the payment of awards and authorizing an appropriation" absolutely

17 Article VII Appropriation

18 Section 701 There is hereby appropriated to the Board of Contract
19 Claims the sum of one hundred fifty thousand dollars (\$150,000) or

1 as much thereof as is necessary for the purpose of carrying out the
2 provisions of this act

3 Section 702 So much of the appropriation made to the Department
4 of the Auditor General for the administration of the Board of Arbi-
5 tration of Claims as may be unexpended as of the effective date of
6 this act shall lapse except as provided in section 501

7 Section 703 This act shall take effect immediately

We certify that this bill has passed the Senate and the House of
Representatives.

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Chief Clerk, Senate

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President pro tempore, Senate

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Speaker, House of Representatives

Approved The day of A. D. 1961.

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Governor