
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. **594** Session of
1961

INTRODUCED BY MESSRS. STIEFEL AND LANE, MAY 2, 1961.

REFERRED TO COMMITTEE ON CORPORATIONS, MAY 2, 1961.

AN ACT

Amending the act of May 28 1937 (P L 1053) entitled "An act relating to the regulation of public utilities defining as public utilities certain corporations companies associations and persons providing for the regulation of public utilities including to a limited extent municipalities engaging in public utility business by prescribing defining and limiting their duties powers and liabilities and regulating the exercise surrender or abandonment of their powers privileges and franchises defining and regulating contract carriers by motor vehicle and brokers in

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.

order to regulate effectively common carriers by motor vehicle conferring upon the Pennsylvania Public Utility Commission the power and duty of supervising and regulating persons associations companies and corporations including to a limited extent municipal corporations subject to this act and administering the provisions of this act authorizing the commission to fix temporary rates placing the burden of proof on public utilities to sustain their rates and certain other matters authorizing a permissive or mandatory sliding scale method of regulating rates providing for the supervision of financial and contractual relations between public utilities and affiliated interests and supervision and regulation of accounts and securities or obligations issued assumed or kept by persons associations companies corporations or municipal corporations subject to this act conferring upon the commission power to vary reform or revise certain contracts conferring upon the commission the exclusive power to regulate or order the construction alteration relocation protection or abolition of crossings of facilities of public utilities and of such facilities by or over public highways

to appropriate property for the construction or improvement of such crossings and to award or apportion resultant costs and damages authorizing owners of such property to sue the Commonwealth for such damages providing for ejectment proceedings in connection with the appropriation of property for crossings conferring upon the commission power to control and regulate budgets of public utilities imposing upon persons associations companies and corporations (except municipal corporations) subject to regulation the cost of administering this act prescribing and regulating practice and procedure before the commission and procedure for review by the courts of commission action giving the court of common pleas of Dauphin County exclusive original jurisdiction over certain proceedings prescribing penalties fines and imprisonment for violations of the provisions of this act and regulations and orders of the commission and the procedure for enforcing such fines and penalties and repealing legislation supplied and superseded by or inconsistent with this act" providing that appeals shall be taken to the Supreme Court

The General Assembly of the Commonwealth of Pennsylvania

hereby enacts as follows

1 Section 1 Sections 1101 1103 and 1104 act of May 28 1937 (P L.
2 1053) known as the "Public Utility Law" are amended to read
3 Section 1101 Appeals to Courts Jurisdiction and Practice (a)
4 Within thirty days after the service of any order by the commission
5 unless an application for a rehearing may be pending and then within
6 thirty days after the service of the order refusing such application or
7 the service of an order modifying amending rescinding or affirming
8 the original order any party to the proceedings affected thereby may
9 appeal therefrom to the [Superior] Supreme Court Such court is hereby
10 clothed with exclusive jurisdiction throughout the Commonwealth for
11 the purpose of hearing and determining any and all such appeals Pro-
12 vided That in case of an appeal from an award by the commission of
13 compensation for damages resulting from an appropriation of real prop-
14 erty under the provisions of this act the appeals shall in case any party
15 is entitled to demand a jury trial under section eight of Article sixteen
16 of the Constitution of this Commonwealth be to the courts of the proper
17 county thereof but in all other cases shall be to the [Superior] Supreme
18 Court In case of any such appeal from such an award where the com-
19 mission shall have apportioned the amount thereof among or shall

1 have directed the payment thereof by any public utility municipal cor-
2 poration or the Commonwealth any such public utility municipal cor-
3 poration or the Commonwealth may intervene and be heard in the trial
4 of such appeal under such rules and regulations as the court shall pre-
5 scribe If an appeal be taken to any court other than the [Superior]
6 Supreme Court the case shall proceed in accordance with the practice
7 and procedure made and provided in such cases

8 (b) All appeals to the [Superior] Supreme Court shall be by peti-
9 tion setting forth specifically and concisely the error or errors assigned
10 to the order of the commission which petition shall be accompanied by
11 a copy of the order appealed from and shall also be accompanied by
12 affidavit of the appellant or of the agent or attorney of such appellant
13 that the appeal is not taken for the purpose of delay but because the
14 appellant verily believes that injustice has been done Each error relied
15 on must be specified particularly and set forth in a separate numbered
16 paragraph of the petition

17 Section 1103 Supersedeas Security No appeal from any order of
18 the commission except as hereinafter provided shall in any case operate
19 as a supersedeas of the order appealed from unless the [Superior]

1 Supreme Court shall by an interlocutory order make such appeal a
2 supersedeas Such interlocutory order shall be made only after such
3 notice to the commission and other parties of record as the court may
4 direct and after hearing Upon the granting of a supersedeas in any
5 case the court may in its discretion require the filing of a bond to the
6 Commonwealth for the use of all parties aggrieved in such sum and
7 conditioned as the court may by its order direct or may grant the
8 supersedeas upon such other terms and conditions as the court in its
9 discretion may prescribe Provided That the effect of any such super-
10 sedeas shall be to continue in effect the temporary rates if any pre-
11 viously established in the proceeding by the commission

12 Section 1104 Parties on Appeal In any appeal to the [Superior]
13 Supreme Court the court may order the complainant in the original
14 complaint to be added to the record as a party and such party shall
15 be permitted to join in the defense of the order of the commission at
16 issue The court may also upon application by petition and cause shown
17 permit any person corporation or municipal corporation to intervene
18 in such proceedings and be added as a party appellant or appellee therein
19 Notice of such application to intervene shall be served upon the com-
20 mission within three days of the filing of such application

1 Section 2 Section 1107 of the act amended July 3 1941 (P L 267)

2 is amended to read

3 Section 1107 Record on Appeal Scope of Inquiry and Disposition
4 of Costs Any appeal to the [Superior] Supreme Court shall be de-
5 termined upon the record certified by the commission to the court All
6 evidence in such record so certified may be considered by the court
7 regardless of any technical rule which might have rendered the same
8 inadmissible if originally offered in the trial of an action at law The
9 court may dismiss the appeal or vacate the order complained of in whole
10 or in part In case the order is wholly or partly vacated the court may
11 also in its discretion remand the matter to the commission for such
12 further proceedings not inconsistent with the decree as in the opinion
13 of the court justice may require The order of the commission shall not
14 be vacated or set aside either in whole or in part except for error of law
15 or lack of evidence to support the finding determination or order of
16 the commission or violation of constitutional rights The costs resulting
17 from any appeal shall be upon the appellant unless the court shall make
18 other disposition of the costs in its decree The costs resulting from any
19 appeal may not be imposed on the commission except in cases where
20 the complaint or proceeding was instituted by the commission

1 Section 3 Sections 1108 1109 1110 1111 and 1112 of the act
2 are amended to read

3 Section 1108 Precedence of Appeals from the orders of the com-
4 mission to the [Superior] Supreme Court shall take precedence upon
5 the calendars of such court over all civil actions except election cases
6 suits for wages and workmen's compensation cases

7 [Section 1109 Appeals to Supreme Court Within thirty days after
8 the entry of any final judgment order or decree of the Superior Court
9 any party to the record aggrieved thereby may appeal therefrom to the
10 Supreme Court if the jurisdiction of the Superior Court is in issue or
11 if the case involves the construction or application of the Constitution
12 of the United States or if any statute or treaty of the United States
13 or if he case involves the construction or application of the Constitution
14 of Pennsylvania or if the appeal to the Supreme Court be especially
15 allowed by the Superior Court itself or by any one justice of the Su-
16 preme Court Such appeals shall be taken and prosecuted in the same
17 manner and with the same effect as is provided in other cases of appeal
18 from the Superior Court to the Supreme Court]

1 Section 1110 Right to Trial by Jury Nothing in this act contained
2 shall be construed to deprive any party upon any such appeal and ju-
3 dicial review of the proceedings and orders of the commission of the
4 right to trial by jury of any issue of fact raised thereby or therein
5 where such right is secured either by the Constitution of the Common-
6 wealth or of the United States but in every such case such right of
7 trial by jury shall remain inviolate Provided however That when any
8 appeal is taken such right shall be deemed to be waived upon all issues
9 unless expressly reserved in such reasonable manner as shall be pre-
10 scribed by the [Superior] Supreme Court

11 Section 1111 Exclusive Jurisdiction of Dauphin County Court to
12 Hear Injunctions No injunction shall issue modifying suspending stay-
13 ing or annulling any order of the commission or of a commissioner ex-
14 cept in a proceeding questioning the jurisdiction of the commission and
15 then only after cause shown upon a hearing The court of common pleas
16 of Dauphin County is hereby clothed with exclusive jurisdiction through-
17 out the Commonwealth of all proceedings for such injunctions subject
18 to an appeal to the [Superior] Supreme Court as aforesaid

1 Section 1112 Effect of Commission Action Whenever the commis-
 2 sion shall make any rule regulation finding determination or order under
 3 the provisions of this act the same shall be prima facie evidence of the
 4 facts found and shall remain conclusive upon all parties affected there-
 5 by unless set aside annulled or modified in an appeal to the [Superior]
 6 Supreme Court taken as provided in this act

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