

No. 45

AN ACT

SB 368

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," creating the Department of General Services and defining its functions, powers and duties; and transferring certain functions, records, equipment, personnel and appropriations from the Department of Property and Supplies and The General State Authority to such department.

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

Section 1. Section 201, act of April 9, 1929 (P.L.177, No.175), known as "The Administrative Code of 1929," amended December 3, 1970 (P.L.834, No.275), is amended to read:

Section 201. Executive Officers, Administrative Departments and Independent Administrative Boards and Commissions.—The executive and administrative work of this Commonwealth shall be performed by the Executive Department, consisting of the Governor, Lieutenant Governor, Secretary of the Commonwealth, Attorney General, Auditor General, State Treasurer, and **[Superintendent of Public Instruction] Secretary of Education**; by the Executive Board, and the Pennsylvania State Police; by the following administrative departments: Department of State, Department of Justice, Department of the Auditor General, Treasury Department, Department of **[Public Instruction] Education**, Department of Military Affairs, Insurance Department, Department of Banking, Department of Agriculture, Department of Transportation, Department of Health, Department of Labor and Industry, Department of Public Welfare, Department of **[Property and Supplies] General Services**, Department of Revenue, Department of Commerce, Department of Community Affairs and Department of Environmental Resources; and by the following independent administrative boards and commissions: Pennsylvania Game Commission, Pennsylvania Fish

Commission, State Civil Service Commission, Pennsylvania Public Utility Commission, and the Pennsylvania Historical and Museum Commission.

All of the provisions of this act, which apply generally to administrative departments, or generally except to the Department of the Auditor General and the Treasury Department, shall apply to the Executive Board and to the Pennsylvania State Police.

Section 2. Section 202 of the act in so far as it relates to the Department of Property and Supplies, amended May 25, 1945 (P.L.1015, No.389) and June 6, 1945 (P.L.1398, No.446), is amended to read:

Section 202. Departmental Administrative Boards, Commissions, and Offices.—The following boards, commissions, and offices are hereby placed and made departmental administrative boards, commissions, or offices, as the case may be, in the respective administrative departments mentioned in the preceding section, as follows:

* * *

In the Department of **[Property and Supplies] General Services,**
Board of Commissioners of Public Grounds and Buildings,
State Art Commission;

* * *

All of the foregoing departmental administrative boards and commissions shall be organized or reorganized as provided in this act.

Section 3. Section 203 of the act, in so far as it relates to the Department of Property and Supplies, amended December 3, 1970 (P.L.834, No.275), is amended to read:

Section 203. Advisory Boards and Commissions.—The following advisory boards and commissions are placed in and made parts of the respective administrative departments, as follows:

* * *

[In the Department of Property and Supplies,
General Galusha-Pennypacker Monument Commission;]

* * *

Section 4. Section 206 of the act, amended December 3, 1970 (P.L.834, No.275), is amended to read:

Section 206. Department Heads.—Each administrative department shall have as its head an officer who shall, either personally, by deputy, or by the duly authorized agent or employe of the department, and subject at all times to the provisions of this act, exercise the powers and perform the duties by law vested in and imposed upon the department.

The following officers shall be the heads of the administrative departments following their respective titles:

Secretary of the Commonwealth, of the Department of State;

Attorney General, of the Department of Justice;
 Auditor General, of the Department of the Auditor General;
 State Treasurer, of the Treasury Department;
[Superintendent of Public Instruction] Secretary of Education, of the
 Department of **[Public Instruction] Education**;
 Adjutant General, of the Department of Military Affairs;
 Insurance Commissioner, of the Insurance Department;
 Secretary of Banking, of the Department of Banking;
 Secretary of Agriculture, of the Department of Agriculture;
 Secretary of Transportation, of the Department of Transportation;
 Secretary of Health, of the Department of Health;
 Secretary of Labor and Industry, of the Department of Labor and
 Industry;
 Secretary of Public Welfare, of the Department of Public Welfare;
**[Secretary of Property and Supplies, of the Department of Property
 and Supplies];**
 Secretary of Revenue, of the Department of Revenue;
 Secretary of Commerce, of the Department of Commerce;
 Secretary of Community Affairs, of the Department of Community
 Affairs;
 Secretary of Environmental Resources, of the Department of
 Environmental Resources;
Secretary of General Services, of the Department of General Services.

Section 5. Section 207 of the act, amended February 18, 1949 (P.L.16, No.5), August 24, 1951 (P.L.1340, No.322) and December 3, 1970 (P.L.834, No.275), is amended to read:

Section 207. Appointment.—The Governor shall nominate and, by and with the advice and consent of two-thirds of all the members of the Senate, appoint:

(a) The Secretary of the Commonwealth, the Attorney General, the **[Superintendent of Public Instruction] Secretary of Education**, 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 Pennsylvania State Police, the Secretary of Labor and Industry, the Secretary of Public Welfare, **[the Secretary of Property and Supplies,]** the Secretary of Revenue, the Secretary of Commerce, the Secretary of Community Affairs, the Secretary of Environmental Resources, **the Secretary of General Services** and the members of all independent administrative boards and commissions.

The Adjutant General may have the rank of Major General of the Adjutant General's Department in the Pennsylvania National Guard, or Pennsylvania Guard, or the Governor may designate the ranking line officer of the Pennsylvania National Guard, or Pennsylvania Guard, or an officer of the Regular Army, United States Navy, United States

Coast Guard, or United States Marine Corps, as Adjutant General: Provided, That should the ranking line officer be also appointed Adjutant General, he shall receive only the salary provided by law for the Adjutant General: And provided further, That should the ranking line officer be called into the service of the United States, a Deputy Adjutant General, to be designated by the Governor, shall act as Adjutant General during his absence. No Adjutant General shall be appointed who shall not have served at least ten years as a commissioned officer in the Pennsylvania National Guard, Pennsylvania Guard, or equivalent length of service in the Regular Army of the United States, United States Navy, United States Coast Guard, or United States Marine Corps, or Officers Reserve Corps of the United States Army, United States Naval Reserve, United States Coast Guard Reserve, or United States Marine Corps Reserve, which service may be cumulative, that is, service in any one or more of the foregoing services may be added together.

The Secretary of Health shall be a doctor of medicine licensed to practice medicine in Pennsylvania or eligible to be so licensed.

(b) Except as in this act otherwise provided, the members of all departmental administrative bodies, boards, and commissions, and the officers who shall fill the departmental administrative offices mentioned in this article.

(c) Except as in this act otherwise provided, the members of all advisory boards and commissions.

Section 6. Clause (h) of section 448 of the act is repealed.

Section 7. Section 508 of the act, amended June 21, 1937 (P.L.1865, No.373), August 14, 1963 (P.L.982, No.449) and September 28, 1965 (P.L.553, No.287), is amended to read:

Section 508. Erection, Repairs, or Alterations of and Additions to Buildings.—(a) No administrative department, except the Department of **[Property and Supplies] General Services**, and no administrative board or commission, shall, except as in this act otherwise specifically provided, erect or construct, or contract for the erection or construction of, any new building, or make, or contract for making, any alterations or additions to an existing building, involving an expenditure of more than **[twelve thousand dollars (\$12,000)] twenty-five thousand dollars (\$25,000)**, and, in any case in which any other department or any board or commission is by this act authorized to erect or construct buildings, or make alterations or additions involving an expenditure of less than **[twelve thousand dollars (\$12,000)] twenty-five thousand dollars (\$25,000)**, *notice of such erection or construction shall be given to the Department of General Services and such erection or construction may be generally supervised by the Department of [Property and Supplies] General Services.*

(b) The Department of **[Property and Supplies] General Services** shall receive at least once every two fiscal years, a survey of all buildings, equipment, land, improvements connected with and comprising each State institution. This survey shall be conducted by the various administrative departments, independent administrative boards and commissions and other State agencies under the Governor's jurisdiction. After making any survey, the administrative departments, independent administrative boards and commissions and other State agencies under the Governor's jurisdiction shall prepare a report, setting forth in detail the results of the survey, including the needs of such institution, with respect to the maintenance of, and repairs, improvements, alterations and additions to, its buildings, land and equipment. The administrative departments, independent administrative boards and commissions and other State agencies under the Governor's jurisdiction shall file a copy of such report with the Department of **[Property and Supplies] General Services** who shall compile all the reports and submit the compilation to the Governor. Such reports shall be used, so far as practical, as a guide in formulating **[the biennial] future** budgetary requests for appropriations for the maintenance of, and repairs, improvements, alterations and additions to, the buildings, lands and equipment of State institutions.

(c) All plans and specifications for new buildings, and for alterations or additions to existing buildings, involving an expenditure of more than **[twelve thousand dollars (\$12,000)] twenty-five thousand dollars (\$25,000)**, shall be subject to the approval of the Department of **[Property and Supplies] General Services**, and, in addition thereto, shall also be subject to the approval of the department, board, or commission using or intending to use the building being erected or constructed, or to which an alteration or addition is being made, with respect to the type and general character of the proposed building, *design of the floor layouts, [radiation, natural light, artificial illumination, ventilation,]* medical equipment, or other equipment of a nature peculiar to the building, for which the plans and specifications are being prepared. In the case of buildings used by or for the use of departmental administrative boards or commissions, the plans and specifications shall also be approved, with respect to the above mentioned matters, by the department with which the board or commission is connected.

(d) Buildings may be erected or constructed, or alterations or additions made, wholly or partially by the labor of employes or inmates or patients of State institutions, if, in the judgment of the agency responsible for the management of such institutions, the work can be properly and safely done by such employes, inmates, or patients. In cases involving an expenditure of more than **[twelve thousand dollars (\$12,000)] twenty five thousand dollars (\$25,000)**, the Department of **[Property and Supplies] General Services**, or *such* outside supervising

engineer or engineering concern, as it may approve, shall have full and direct responsibility for the management of the work, and the department, board or commission using or intending to use the building shall have complete charge of such employees, inmates, or patients.

(g) Whenever any building or structure on any land owned by the Commonwealth shall become so obsolete and dilapidated as to make it impractical to repair the same, and shall be no longer of use to the Commonwealth, the Department of **[Property and Supplies] General Services**, with the approval of the Governor, shall have power to demolish or authorize the demolition of such building or structure whenever requested to do so by the department, board, commission or agency having control or possession of such building or structure.

Section 8. The heading of Article XXIV of the act is amended to read:

ARTICLE XXIV
POWERS AND DUTIES OF THE DEPARTMENT OF
[PROPERTY AND SUPPLIES] GENERAL SERVICES AND ITS
DEPARTMENTAL ADMINISTRATIVE AND ADVISORY
BOARDS AND COMMISSIONS

Section 9. The act is amended by adding sections to read:

Section 2401.1. Specific Powers of the Department of General Services.—In addition to all other powers and duties set forth in this act, the Department of General Services shall have the power, and its duty shall be:

(1) To exercise all the powers and duties as to new construction, alteration and repairs over twenty-five thousand dollars (\$25,000) base cost, heretofore exercised by the Department of Property and Supplies and other Commonwealth departments. Base cost shall mean and include the base construction cost of a capital project as set forth in a capital budget.

(2) To have exclusive authority over all construction of capital public improvement projects passed in a Commonwealth Capital Budget or other legislation; excluding, however, highways, bridges and other transportation facilities. "Public improvement projects" means and includes constructing, improving, and acquiring sewers, sewer systems, and sewage treatment works for State institutions of every kind and character, public buildings for the use of the Commonwealth, State arsenals, armories, and military reserves, State airports and landing fields, State institutions of every kind and character, additions and improvements to State colleges and Indiana University of Pennsylvania, State-related educational institutions, necessary roads, bridges, tunnels, and relocation of highways needed for "public improvement projects," swimming pools, reservoirs and lakes, marinas, marine terminals, port improvements, low head dams, improvements to river embankments,

desilting dams, impounding basins, flood control projects, and the purchase of lands for rehabilitation purposes in connection with State institutions and for use of State colleges: Provided, however, That the purpose and intent of these projects being to benefit the people of the Commonwealth by, among other things, increasing their commerce and prosperity, and not to unnecessarily burden or interfere with existing business by the establishment of competitive enterprises which, in whole or in part, shall duplicate or compete with existing enterprises serving substantially the same purposes.

(3) To have exclusive authority over all Commonwealth repair projects which cost in excess of twenty-five thousand dollars (\$25,000) funded by appropriations in the operating budget; excluding, however, highways, bridges, and other transportation facilities.

(4) To acquire land in the name of the Commonwealth by purchase or eminent domain proceedings, in fee or in such right, title, interest or easement as the department may deem necessary for the project as specifically authorized in a capital budget or other legislation; excluding, however, highways, bridges and other transportation facilities.

(5) To carry out all construction activities which cost in excess of twenty-five thousand dollars (\$25,000), including all aspects of project management, design and construction, such as preplanning and estimating, legal and administrative services, planning, actual construction, repair, alteration or addition to existing facilities.

(6) To exercise all the powers and duties as to new construction heretofore exercised by The General State Authority.

(7) To provide, when and if requested, by contract all the services cited above for all State agencies.

(8) To take by assignment from The General State Authority and the Department of Property and Supplies all contracts which have been entered into for the construction of projects not completed, and all projects which have or shall have been authorized for which funds have been allocated or otherwise committed.

(9) To formulate and establish minimum specifications and standards for construction, room design, materials and utilities for all projects to be constructed by or the construction of which is subsidized in whole or in part by the Commonwealth and to be used by any department, board, agency, commission, or State supported institution, agency, or project; for this purpose, the Department of General Services may establish a laboratory for testing new construction materials, procedures and systems and shall issue reports on the results of any such laboratory tests.

(10) To assume specific responsibility for controlling the quality of materials and workmanship, giving due consideration to the feasibility of maintaining public projects once they have been built.

(11) *To provide architectural and engineering services, including planning, estimating and project management to any department, board, commission, agency or State supported institution contemplating State construction or repair projects out of funds appropriated to it or the department, board, agency, commission, or State-supported institution for which the project is intended.*

(12) *To employ officers, agents, employes, capable registered architects and engineers, technical specialists and clerical personnel as may be necessary to comply with the provisions of this section. No employe may, on leaving the employ of the department, negotiate or participate in any contract for the providing of goods or services to the department before the expiration of one year from the date of termination of his employment.*

(13) *With approval of the Governor, to allocate increases in the cost of capital projects to be acquired and/or constructed from general obligation bonds provided (i) funds are available from authorizations no longer required for design, acquisition or construction of any approved capital project and provided (ii) that the previously approved cost of the project is increased by an amount no greater than a dollar amount determined as follows: the approved project cost multiplied by one hundred twenty per centum (120%) of the escalation percentage in The Composite Construction Cost Index of the United States Department of Commerce for the period from the date of the General Assembly approval of the base construction cost to the date of the awarding of the construction bids.*

(14) *With the approval of the Governor, to transfer and convey any easements or licenses necessitated by any construction project which has been previously authorized by the General Assembly.*

(15) *To enter into contracts of all kinds and to execute all instruments necessary or convenient for carrying on its operations.*

(16) *To accept grants and subsidies from and enter into agreements or other transactions with any Federal agency or agency of the Commonwealth or other entity.*

(17) *To accept grants-in-aid, gifts, donations, legacies or usages of money made or extended by individuals, organizations, public or private corporations, departments or instrumentalities of the Commonwealth, or the Federal Government, and to return money advanced for its usage not otherwise required for its purposes.*

(18) *To pay for administrative expenses related to capital projects funded by Commonwealth General Obligation Bonds or other funds appropriated, the Department of General Services, with the approval of the Governor, shall charge a fee against proceeds from said bonds which were sold to finance base construction or acquisition costs of said projects undertaken by the department or a like fee against other specifically appropriated funds for capital improvement projects. The amount of the fee shall be set by departmental regulations.*

(19) *To review the work, experience and qualification of architects and engineers seeking contracts from the Commonwealth for non-transportation projects and, on the basis of merit, to select and appoint said architects and engineers for the design, contract administration and at the department's discretion, inspection, under this act. The Governor, in order to assist the department in the selection and appointment of architects and engineers on the basis of merit, shall appoint a Selections Committee consisting of five members, none of whom shall be employees of the Commonwealth or hold any elective office or office in any political party or body, and shall be composed of architects, engineers or other persons knowledgeable in the field of building construction. The members of the committee shall serve for terms of two years and shall not be removed except for cause. Of the original members three shall serve for terms of two years and two for terms of one year. Thereafter all terms shall be for two years. Each appointed member shall be reimbursed for reasonable travel and other expenses incurred incident to such attendance and to such assigned duty and also a per diem allowance as determined by the Executive Board. The Selections Committee shall have the obligation of giving public notice of projects requiring the services of architects and engineers, and of publicly recommending to the department three qualified architects and/or engineers in order of its preference for each project. Any architect or engineer so recommended shall submit promptly the name or names of his associate architect or engineer to the department. The department shall have the duty to select or appoint one of the persons or firms which have been recommended by the Selections Committee. In exercising its responsibility, the department shall consider the following factors: (i) an equitable distribution of contracts to architects and engineers, (ii) particular capability to perform the design or construction services for the contract being considered, (iii) geographic proximity of the architect or engineer to the proposed facility, (iv) that the architect or engineer selected has the necessary available manpower to perform the services required by the project, or (v) any other relevant circumstances peculiar to the proposed contract. The Selections Committee shall set the fee to be paid for the pre-planning, design and contract administration of any project. The department shall set limits of the fee and by regulation shall adopt such procedures as will implement the carrying out of this paragraph (19).*

(20) *To do all acts and things necessary or convenient to carry out the powers granted to it by this act or any other acts, including but not limited to the issuance of general regulations implementing the act.*

Section 2401.2. Department of Environmental Resources Powers not Affected.—It is not the intention or purpose of this Article XXIV to curtail the historical construction activities of the Department of Environmental Resources. Therefore, nothing in this article shall be

interpreted as altering in any way the powers, duties and authority of the Department of Environmental Resources as possessed by it just prior to the effective date of this article.

Section 10. Clause (e) of section 2402 of the act is repealed.

Section 11. Clause (f) of section 2402 of the act, amended June 21, 1937 (P.L.1865, No.373), is amended to read:

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

* * *

(f) Out of the funds appropriated *or otherwise made available* to the department therefor, to purchase or condemn land, with or without buildings thereon, for *all projects*, [the purpose of adding the same to any of the public lands or parks, or for use as sites for or in connection with arsenals, armories, military reservations, intermediate landing fields, hospitals, normal schools, teachers' colleges, penal or correctional institutions, or other institutions of the Commonwealth,] whenever, in the judgment of the Governor, the purchase or condemnation of such land is necessary, or whenever such purchase or condemnation shall have been authorized by law, and an appropriation shall have been made therefor. [The condemnation of land hereunder shall be in the manner provided by the act, approved the fifteenth day of July, one thousand nine hundred and nineteen (Pamphlet Laws, nine hundred seventy-six), entitled "An act to authorize the Board of Commissioners of Public Grounds and Buildings to acquire property for the Commonwealth by proceedings in eminent domain, where the purchase of such property has either been authorized by law, or determined by the Board of Commissioners of Public Grounds and Buildings under existing laws, and an appropriation made therefor," its amendments and supplements. Except as otherwise in this act expressly provided, no other department, board, or commission of the State Government shall hereafter exercise the right of eminent domain for any of the purposes aforesaid, any other act of Assembly heretofore enacted to the contrary notwithstanding,] *The condemnation of land by the department hereunder shall be in the manner provided by the act of June 22, 1964 (Sp.Sess., P.L.84, No.6), known as the "Eminent Domain Code."*

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Section 12. Section 2403.1 of the act is repealed.

Section 13. Section 2408 of the act, amended June 21, 1937 (P.L.1865, No.373), July 22, 1965 (P.L.228, No.125) and August 12, 1971 (P.L.316, No.80), is amended to read:

Section 2408. Procedure for [**Erection of Buildings and Construction of all Capital Improvements, Repairs or Alterations [or Additions to Existing Buildings] under the Control of the Department of General Services.**—Whenever the General Assembly [shall have

appropriated money to the Department of Property and Supplies, or to any other department, or to any administrative board or commission, for the erection of new buildings, or sewage or filtration plants, other service systems, or athletic fields, or other structures, or for alterations or additions or repairs to existing buildings, or to such plants, systems, fields, or structures, to cost more than twelve thousand dollars (\$12,000)] *has made an appropriation or authorized borrowing under the act of July 20, 1968 (P.L.550, No.217), known as the "Capital Facilities Debt Enabling Act," in any budget to the Department of General Services or to any department, board, commission, agency or State supported institution for the construction of a capital improvement, or for the repair or alteration of a capital improvement to be completed by the Department of General Services, to cost more than twenty-five thousand dollars (\$25,000)*, the following procedure shall apply, unless the work is to be done by State employes, or by inmates or patients of a State institution or State institutions, or unless the department, board, or commission to which the General Assembly has appropriated money for the foregoing purposes is, by this act or by the act making the appropriation, authorized to erect, alter, or enlarge buildings independently of the Department of [Property and Supplies] *General Services*, or under a different procedure:

[(a)] (1) (i) If the appropriation *for a maintenance project* is to a department, *board, agency, commission or State supported institution* other than the Department of [Property and Supplies or to a board or commission,] *General Services*, such department, board, [or] *agency, commission, or State supported institution* shall notify the Department of [Property and Supplies as soon as it is ready] *General Services*, to have plans and specifications for the [work] *project* prepared.

(ii) *Upon enactment of appropriations for capital projects, all departments, boards, agencies, and commissions shall, with the approval of the Governor, notify the Department of General Services to have plans and specifications for the projects prepared.*

[(b)] (2) Promptly after such notice, in such cases, or promptly after any appropriation made to it becomes available, the Department of [Property and Supplies] *General Services* shall, *if necessary*, select an architect [and, if necessary] *and/or* an engineer, [or both,] *pursuant to the selection procedures of section 2401.1(19)*, to design the work, and prepare the specifications therefor [, but, in the case of a building to be done for the use of any other department, or any board or commission (unless the building is on the Capitol grounds), the selection of the architect and engineer, if any, shall be subject to approval by such department, board, or commission, and, in case of departmental administrative boards or commissions, by the departments with which such boards or commissions are respectively connected. Any architect or engineer so selected and approved shall submit promptly the name or

names of his associate architect or engineers to the Department of Property and Supplies for its approval].

(c) (3) The Department of **[Property and Supplies] General Services** shall enter into a contract with the architect or engineer, which shall provide **(i)** a date for the completion of the plans and specifications, and; **(ii)** that the plans and specifications must meet with the approval of the department, board, or commission for which the building is being erected, altered, or enlarged **[(unless the building is on the Capitol grounds),]** and, in the case of departmental administrative boards or commissions, of the departments with which such boards or commissions are respectively connected, to the extent of the type and general character of the building, **design of** the floor layouts, **[radiation, natural light, artificial illumination, ventilation,]** medical equipment, or other equipment of a nature peculiar to the building for which the plans and specifications are being prepared; **(iii)** that the plans, drawings, and specifications must be approved by the Department of **[Property and Supplies] General Services**; **(iv)** that the exterior design of the building must be approved by the State Art Commission; and **(v)** that the plans and specifications must be approved by the Department of Labor and Industry, **[and]** the Department of Health, **and the Department of Environmental Resources**, to the extent to which those departments, respectively, have jurisdiction to require the submission to them for approval of certain features of the building. Such architect or engineer in preparing plans and specifications, shall consult with the department, board, or commission, **agency or State supported institution** for which the building is to be erected, altered or enlarged, but the Department of **[Property and Supplies] General Services** shall insist upon the prompt completion of the plans and specifications, within the time prescribed in the architect's or engineer's contracts, unless it shall **specifically** agree **in writing** to an extension thereof.

(4) Every department, board, **[or]** commission, **agency or State supported institution** whose approval of plans and specifications is required hereunder, shall, within **[twenty] thirty** days after submission thereof by the architect or engineer, approve or disapprove all sketches, drawings, specifications, and other documents, and shall inform the architect or engineer of decisions in such reasonable time as not to delay him in his work.

(5) (i) *The department may make rules and regulations for the invitation of proposals, submission of bids, issuance of binding letters of intent to contract, and the award of contracts for erecting, altering, or adding to any building: Provided, That such rules and regulations shall not conflict with the requirements of competitive bidding.*

(ii) *The secretary shall appoint, within sixty days after the effective date of this act, a Committee on Construction Contract Documents, which shall consist of not more than five nor less than three members selected from associations representing contractors doing business with*

the department. The committee shall be a continuing committee, which shall meet with the department at least once during each calendar-year at a time to be scheduled by the department. Other meetings may be requested in writing by the department or the committee. The terms of the committee members shall be determined by the secretary. Vacancies on the committee shall be filled by the secretary, who may reappoint members whose terms have expired.

[(d)] (6) Upon the completion of the plans and specifications, and their approval by all necessary State agencies, the Department of **[Property and Supplies] General Services, unless the work is to be done by State employes**, shall invite proposals, by advertisements inserted at least three times in not less than six **[or more than twelve]** newspapers of large general circulation in different parts of the Commonwealth. The first and last publications of any such advertisement shall be at least ten days apart, and the department shall not advertise hereunder in more than three newspapers in the same county.

[(e)] (7) The department may invite proposals, either for completely erecting, altering, or adding to any building, or separately for parts of the work, or both **[Whether it shall invite proposals for part of the work, and, if so, for what parts, shall rest within the sole discretion of the department]** *on all projects under twenty-five thousand dollars (\$25,000) base construction cost. All projects exceeding twenty-five thousand dollars (\$25,000) shall be subject to the act of May 1, 1913 (P.L.155, No.104), entitled "An act regulating the letting of certain contracts for the erection, construction, and alteration of public buildings." Whenever the department enters into a single contract for a project, in the absence of good and sufficient reasons, the contractor shall pay each subcontractor within fifteen days of receipt of payment from the department, an amount equal to the percentage of completion allowed to the contractor on account of such subcontractor's work. The contractor shall also require such subcontractor to make similar payments to his subcontractors.*

[(f)] (8) All proposals shall be accompanied by certified or bank checks or surety bid bonds, in such amounts or percentages of the amounts of the proposals as shall be specified in the advertisement, and shall be publicly opened and **[tabulated] announced** at the time and place specified in the advertisement. ***Bids shall be tabulated and made available to the public as soon thereafter as practicable.***

[(g)] (9) The department shall, as soon as practicable, award the contracts to the lowest responsible qualified bidder, but it shall have the right to reject any or all bids, to waive technical defects and to accept or reject any part of any bid, if in the judgment of the department, the best interests of the Commonwealth shall require it. The successful bidder shall also deliver to the Commonwealth, at the time of execution of the contract, a surety bond having as surety a surety company authorized to

transact business in this Commonwealth or two individual sureties approved by the **[Department of Justice] chief counsel of the department**, in the amount of ten per centum (10%) of the contract price, as surety against defective or inferior materials or workmanship which may develop during the period of one (1) year from the date of **total** completion and acceptance of **[the] all** work performed under the contract.

[(h)] (10) No proposal for any contract shall be considered unless accompanied by a certified or bank check or surety bid bond as prescribed by the department at the time of advertising. A bidder who shall have accompanied his proposal with a certified or bank check or surety bid bond, as aforesaid, and to whom a contract shall have been awarded, must, within ten days after such award, substitute for said check or surety bid bond a surety performance **[bond for not less than fifty per centum (50%) or more than one hundred per centum (100%) of the bid price of the work, as shall have been prescribed by the department in its invitation for proposals, and an additional bond in a sum not less than fifty per centum (50%) and not more than one hundred per centum (100%) of the contract price of the work, as prescribed by the department in its invitation for proposals, conditioned that the contractor will promptly pay for all material furnished and labor supplied or performed in the prosecution of the work, whether or not the material or labor enter into and become component parts of the building. Such additional bond shall be held by the Department of Property and Supplies for the use of every party who, whether as subcontractor or otherwise, has furnished material or supplied or performed labor in the prosecution of the work, as above provided, and who has not been paid therefor; and, among other things, shall provide specifically that any such party may bring a suit thereon, in the name of the Commonwealth, for his, their, or its own use, prosecute the same to final judgment for such sum or sums as may be justly due, and have execution thereon: Provided, however, That the Commonwealth shall not be liable for the payment of any costs or expenses of any such suit. Each surety bond, required hereunder, shall have as surety a surety company authorized to transact business in this Commonwealth, or two individual sureties approved by the Department of Justice.] and payment bond in conformity with the requirements of the act of December 20, 1967 (P.L.869, No.385), known as the "Public Works Contractors' Bond Law of 1967."**

[(i)] (11) No contract shall be valid or effective unless a certified copy thereof, **[detail break-down sheet of the work,]** and **the** contract price of the work involved, shall have been filed in the offices of **[the Auditor General,]** the State Treasurer, and the department, board, or commission, **agency or State supported institution** for which the work is to be done, promptly after the execution of the contract.

[(j)] (12) The enforcement of all contracts provided for by this section shall be under the control and supervision of the Department of **[Property and Supplies. In the event that the Department of Property and Supplies and the contractor cannot agree on any of the general conditions of the contract, and on the specifications, such disagreement shall be subject to decision by the Department of Justice, and its decision shall be final.]** *General Services. Enforcement does not include coordination of the work of the total project which is the respective responsibility of each prime contractor as provided under the contract. All questions or disputes arising between the Department of General Services and any contractor with respect to any matter pertaining to a contract entered into with the Department of General Services or any part thereto, or any breach of contract arising thereunder shall be submitted to final and binding arbitration as provided by the terms of the contract which finding shall be final and not subject to further appeal; or if not so provided shall be referred to the Board of Arbitrators of Claims (as set forth in the act of May 20, 1937 (P.L. 728, No. 193)) whose decision and award shall be final and binding and conclusive upon all parties thereto, except that either party shall have the right to appeal from said decision and award as provided by law.*

[(k)] (13) The Department of **[Property and Supplies]** *General Services* shall examine all bills on account of the 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 a workmanlike manner and in accordance with the contract, approve the bills, and issue its requisition therefor, or forward its certificate to the proper department, board, or commission, *agency or State supported institution*, as the case may be. *Progress payments and final payments shall not estop the department from pursuing its lawful remedies for defects in workmanship and/or materials and other damages.*

[(l)] (14) The Department of **[Property and Supplies]** *General Services* shall have the right to engage the services of any consulting or supervising engineer or engineers, whom it may deem necessary for the proper designing of or inspection or supervision of **[buildings erected,] projects constructed,** altered, or enlarged by the department hereunder, *pursuant to the selection procedures of section 2401.1(19).*

[(m)] (15) Changes in *scope in* the plans or specifications, or both, may be made after their approval, only with the consent of *the Governor and* all of the departments, boards and commissions, *agencies and State supported institutions* whose approval of the original plans or specifications, or both, was necessary hereunder.

[(n)] (16) If the appropriation is to a department, other than the Department of **[Property and Supplies]** *General Services*, or to a board or commission, *agency or State supported institution*, the Department

of **[Property and Supplies] General Services** shall award and enter into the contract as agent for the department, board, **[or]** commission, *agency or State supported institution* to which the appropriation was made.

Section 14. Section 2411 of the act is repealed.

Section 15. Section 2412 of the act is amended to read:

Section 2412. Qualification of Bidders.—In every case in which the Department of **[Property and Supplies] General Services** is authorized by this act to invite proposals, it may, in its discretion, furnish to every prospective bidder a questionnaire calling upon the bidder to furnish information relative to his financial status, experience, equipment, and integrity, and require such questionnaire, properly filled out and verified by oath or affirmation, to be attached to the bidder's proposal.

Whenever a questionnaire is furnished and required hereunder the department may consider the information therein contained in determining which is the lowest responsible bidder. *The financial status information contained in the questionnaire shall be confidential information and the department shall neither publish such information nor permit persons outside the department to have access to it unless required by court order.*

The terms "architect" and "architecture" used in this article shall include landscape architects and landscape architecture, respectively.

Section 16. Clause (a) of section 2413 of the act, amended June 5, 1947 (P.L.407, No.187), is amended to read:

Section 2413. Board of Commissioners of Public Grounds and Buildings.—The Board of Commissioners of Public Grounds and Buildings shall have the power, and its duty shall be:

(a) To approve or disapprove *all* proposed leases for *offices*, branch offices, rooms, and accommodations **[, outside the capital city];**

* * *

Section 17. Sections 2413(b) and 2415 of the act are repealed.

Section 18. The annual salary of the Secretary of General Services shall be \$40,000.

Section 19. (a) All personnel, allocations, appropriations, agreements, leases, claims, demands and causes of action of any nature whether or not subject to litigation on the date of this act, equipment, files, records, classified data files, plans, maps, air photographs, and all other materials which are used, employed or expended in connection with the duties, powers or functions of the Department of Property and Supplies and/or The General State Authority are hereby transferred by this act to the Department of General Services with the same force and effect as if the appropriations had been made to and said items had been the property of the Department of General Services in the first instance and if said contracts, agreements, leases and obligations had been incurred or entered into by the Department of General Services.

(b) All personnel transferred to the Department of General Services from other State departments and agencies pursuant to this act shall retain any civil service or other employment status assigned to said personnel in those departments or agencies prior to the effective date of this act.

Section 20. Nothing contained in this act shall be construed to affect any project of The General State Authority upon which any of the proceeds of its bonds have been or may be expended.

Section 21. (a) Whenever in any law, reference is made to the Department of Property and Supplies, such reference shall be deemed to refer to and include the Department of General Services.

(b) Whenever in any law, reference is made to the Secretary of Property and Supplies, such reference shall be deemed to refer to the Secretary of General Services.

Section 22. There are hereby transferred to the Department of General Services all of the functions, powers and duties of:

(a) The Department of Property and Supplies.

(b) The General State Authority under the act of March 31, 1949 (P.L.372, No.34), known as "The General State Authority Act of one thousand nine hundred forty-nine."

(c) The Capitol Park Extension Commission under the act of June 3, 1943 (P.L.818, No.346), entitled "An act for the extension of Capitol Park in the City of Harrisburg and for the acquisition of real estate in connection therewith, and for the demolition of the buildings and structures thereon; providing for and imposing powers and duties upon a Capitol Park Extension Commission; conferring powers and duties upon the Department of Property and Supplies; and making an appropriation."

(d) The division of Surplus Property Disposal under Reorganization Plan No. 8 of 1955.

Section 23. (a) The General State Authority organized and existing under the act of March 31, 1949 (P.L.372, No.34), known as "The General State Authority Act of one thousand nine hundred forty-nine," shall continue in existence and maintain the rights vested in the authority until all General State Authority bonds at any time issued, together with the interest thereon, are fully met and discharged, at which time The General State Authority is abolished.

(b) The Capitol Park Extension Commission organized and existing under the act of June 3, 1943 (P.L.818, No.346); entitled "An act for the extension of Capitol Park in the City of Harrisburg and for the acquisition of real estate in connection therewith, and for the demolition of the buildings and structures thereon; providing for and imposing powers and duties upon a Capitol Park Extension Commission; conferring powers and duties upon the Department of Property and Supplies; and making an appropriation," is abolished.

Section 24. All other acts and parts of acts, general, local and special, are repealed in so far as they are inconsistent herewith.

Section 25. This act shall take effect in 90 days: Provided, however, That prior to the aforementioned effective date the Governor may nominate and, by and with the advice and consent of two-thirds of all the members of the Senate, appoint the Secretary of General Services, whose term of office shall begin on the aforementioned effective date of this act.

APPROVED—The 22nd day of July, A. D. 1975.

MILTON J. SHAPP