

No. 1983-25

AN ACT

SB 128

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," requiring the monitoring of corresponding regulatory agencies; further providing for budget procedures; continuing the Office of Consumer Advocate; providing for the assessment for the fiscal year 1983-1984; and making a repeal.

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

Section 1. Section 904-A of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, added July 9, 1976 (P.L.903, No.161), is amended by adding a subsection to read:

Section 904-A. Powers and Duties of the Consumer Advocate.—* * *

(a.1) The Consumer Advocate may monitor all cases before corresponding regulatory agencies of the United States, including the Federal Communications Commission and the Federal Energy Regulatory Commission, which impact upon the interests of Pennsylvania consumers and may formally participate in those proceedings which in his judgment warrant such participation.

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Section 2. Section 904-A.1(a) of the act, amended July 1, 1978 (P.L.581, No.107), is amended to read:

Section 904-A.1. Assessment Upon Public Utilities, Disposition, Appropriation and Disbursement of such Assessments.—(a) Before [July 1 of each year] *November 1, 1983 for fiscal year 1984-1985 and before November 1 of each year hereafter*, the Office of Consumer Advocate shall estimate [its] *the* total expenditures [in the administration of this act insofar as it relates to public utilities for the fiscal year beginning that date, which estimate for the fiscal year 1977-1978 shall not exceed seven per centum (7%) of the total assessment of the Public Utility Commission for the same fiscal year levied pursuant to section 1201 of the act of May 28, 1937 (P.L.1053, No.286), known as the "Public Utility Law." The Pennsylvania Public

Utility Commission's total assessment for fiscal 1977-1978 was twelve million nine hundred fifty-four thousand five hundred forty-nine dollars and ninety eight cents (\$12,954,549.98) and seven per centum (7%) of that figure is equivalent to nine hundred six thousand eight hundred eighteen dollars (\$906,818) for the Office of Consumer Advocate. It is hereby declared that the assessment for the Office of Consumer Advocate approved by the Appropriation Committees of both the House and Senate of Pennsylvania, and by the Governor for the fiscal year 1977-1978 in the amount of nine hundred four thousand dollars (\$904,000) is within the statutory limit of seven per centum (7%) of the Pennsylvania Public Utility Commission's total assessment for the fiscal year 1977-1978. For the fiscal year 1978-1979 and for each fiscal year thereafter, the Office of Consumer Advocate's estimate of its total expenditures for that fiscal year] *for the Office of Consumer Advocate and submit the estimate to the Governor in accordance with section 610 of the act. At the same time the Consumer Advocate submits his estimate to the Governor, the Consumer Advocate shall also submit that estimate to the General Assembly. Such estimate shall not exceed five one hundredths of one per centum (.05%) of the total gross intrastate operating revenues of all public utilities subject to the jurisdiction of the Pennsylvania Public Utility Commission for the preceding calendar year. [Such estimate shall be submitted to the Governor and to the Appropriation Committees of the House and Senate through their respective chairmen for their respective approvals of such estimate in the amount submitted or such lesser amount as each of them may determine: Provided, That if the Governor or either committee, through its chairman, shall fail to notify the Office of Consumer Advocate in writing of his or its action within thirty (30) days after such submission, the estimate as submitted shall be deemed approved by him or by such committee, as the case may be. The least of the amounts so approved by the three (3) approving authorities shall be the final estimate, and approval of such least amount shall constitute compliance with section 604.] The Consumer Advocate or his designated representatives shall be afforded an opportunity to appear before the Governor and the Senate and House Appropriations Committees regarding his estimate. If the General Assembly fails to approve the Consumer Advocate's budget for the purposes of this section by March 30, the Public Utility Commission shall assess public utilities on the basis of the last approved allocation. At such time as the General Assembly approves the proposed budget, the Consumer Advocate and the commission shall make an adjustment in the assessments to reflect the approved budget. The Office of Consumer Advocate shall subtract from the [final estimate the estimated] budget finally approved by the General Assembly any balance of the appropriation to be carried over into such fiscal year from the preceding one. The remainder so determined[, herein called] shall constitute the total assessment, and shall be allocated to, and paid by, [such] public utilities in the manner hereafter prescribed. [The Office of Consumer Advocate or its designated representative shall be afforded an opportunity to appear before the Senate and the House Appropriation Committees regarding its estimate.]*

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Section 3. 904-A.1(h) of the act, added June 21, 1977 (P.L.19, No.15), is amended to read:

Section 904-A.1. Assessment Upon Public Utilities, Disposition, Appropriation and Disbursement of such Assessments.—***

(h) All such assessments, **[having been advanced] allocated to and paid** by public utilities **shall be held in trust solely** for the purpose of defraying the cost of the administration and performance of the duties of the Office of Consumer Advocate relating to proceedings before the Pennsylvania Public Utility Commission, *the corresponding regulatory agencies of the United States*, related judicial proceedings, and other such matters within the jurisdiction of the Office of Consumer Advocate, **[shall be held in trust solely for that purpose]** and shall be earmarked for the use of, and **[are hereby] annually** appropriated to, the Office of Consumer Advocate for disbursement solely for that purpose.

Section 4. The act is amended by adding a section to read:

Section 908-A. Office of Consumer Advocate to Continue.—(a) Notwithstanding the provisions of section 4 of the act of July 9, 1976 (P.L.903, No.161), entitled "An act 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,' providing for the office of Consumer Advocate in the Department of Justice for a limited period; and imposing powers and duties; and making an appropriation," which is repealed by this act, the Office of Consumer Advocate shall continue together with its statutory functions and duties until December 31, 1989, when it shall terminate and go out of existence unless reestablished or continued by the General Assembly.

(b) Evaluation and review, termination, reestablishment and continuation of the agency shall be conducted pursuant to the provisions of the act of December 22, 1981 (P.L.508, No.142), known as the "Sunset Act."

Section 5. Section 4 of the act of July 9, 1976 (P.L.903, No.161), entitled "An act 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,' providing for the office of Consumer Advocate in the Department of Justice for a limited period; and imposing powers and duties; and making an appropriation," is repealed.

Section 6. (a) Notwithstanding any action taken heretofore, the total assessment for fiscal year 1983-1984 shall be \$1,732,000. The assessment made by this section shall replace any assessment for fiscal year 1983-1984 made heretofore and such assessment is hereby appropriated to the Office of Consumer Advocate for defraying the costs of administration and the performance of the duties of the Office of Consumer Advocate.

(b) The Office of Consumer Advocate and the Public Utility Commission shall make a supplemental assessment on public utilities based on the increase in total assessment over the total assessment for fiscal year 1983-1984 made heretofore and such supplemental assessment shall be governed by the procedures established for the making and collection of assessments.

Section 7. This act shall take effect immediately.

APPROVED—The 20th day of July, A. D. 1983.

DICK THORNBURGH