

No. 1988-80

AN ACT

HB 1786

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," reestablishing the Industrial Board; providing for its composition, powers and duties; further providing for the powers and duties of the Department of Labor and Industry; providing for a Policy, Planning and Evaluation Advisory Committee; making an editorial change; and making repeals.

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

Section 1. As much as applies to the Department of Labor and Industry in section 203 of the 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 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 Labor and Industry,
[Industrial Board,]
 Advisory Council on Affairs of the Handicapped,
 Advisory Board on Problems of Older Workers[;],
Policy, Planning and Evaluation Advisory Committee;

* * *

Section 2. Section 445 of the act, amended June 21, 1937 (P.L.1865, No.373), is amended to read:

Section 445. The Industrial Board.—(a) The Industrial Board shall consist of the Secretary of Labor and Industry[, and four additional members, one of whom shall be an employer of labor, one a wage earner and one a woman. The Secretary of Labor and Industry shall be the chairman of the board.

Three members of the board shall be a quorum.

The members of the Industrial Board, other than the chairman, shall receive fifteen dollars per day while in the performance of their official duties.] *or his designee and six additional members appointed by the Governor, one of whom shall be a licensed architect, one a licensed engineer, one a representative of the building industry with experience in building safety, one a representative of an employe organization with experience in building safety and two representatives of the general public.*

(b) The Secretary of Labor and Industry or his designee shall be the chairman of the board.

(c) Four members of the board shall constitute a quorum except as provided for in subsection (g).

(d) A majority vote shall be required for any official action of the board or any panel provided for in subsection (g).

(e) All members, other than the Secretary of Labor and Industry or his designee, shall be appointed for terms of four years, such terms to run concurrent with that of the Governor and until successors are appointed and qualified. Any member appointed to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member whom he is to succeed.

(f) Board members, other than the Secretary of Labor and Industry or his designee, shall receive one hundred dollars per diem while actually attending to the work of the board. Members shall also receive the amount of reasonable traveling, hotel and other necessary expenses incurred in the performance of their duties in accordance with Commonwealth regulations.

(g) The board may, at the discretion of the chairman, hear appeals or perform its other duties in panels of three members, including the chairman, one of the professional members (the architect, engineer or representative of the building industry) and one member representing an employe organization or a public member. Panels may hold hearings in the various regions of this Commonwealth for the convenience of petitioners or other witnesses. Decisions of the panels shall be final unless the chairman or another panel member refers the matter to the full board for review or unless one of the parties appeals to the full board. The first hearing on any petition shall be held on any petition within forty-five days of receipt of the receiving petition.

Section 3. Section 528 of the act, amended July 6, 1961 (P.L.516, No.267), is amended to read:

Section 528. Cotton Fabrics.—All cotton fabrics or other fabrics or material used in State institutions, which involves the threat of fire, shall be treated, processed or used so as to lessen danger from fire, smoke or panic in accordance with regulations of the Department of Labor and Industry **[approved by the Industrial Board]**.

Section 4. Section 2203 of the act is amended to read:

Section 2203. Investigations.—The Department of Labor and Industry shall have the power to make investigations and surveys upon any subject within the jurisdiction of the department, either upon its own initiative or upon the request of **[the Industrial Board]** *an advisory board, commission or committee of the department.*

Section 5. Section 2205 of the act, repealed in part July 31, 1968 (P.L.769, No.240), is amended to read:

Section 2205. Rules and Regulations.—[Subject to approval by the Industrial Board, the] The Department of Labor and Industry shall have the power to make rules and regulations for carrying into effect the laws regulating the labor of persons within this Commonwealth, and the construction, ventilation, and equipment of the rooms, buildings, or places where such labor is performed, or where public assemblies are held, and to enforce all such rules and regulations.

Section 6. The act is amended by adding a section to read:

Section 2209.3. Policy, Planning and Evaluation Advisory Committee.—(a) A Policy, Planning and Evaluation Advisory Committee is hereby created within the Department of Labor and Industry. The committee shall consist of any reasonable number of members, to be appointed by the Secretary of Labor and Industry. The appointees must, however, include at least two women who are employed by a private employer within this Commonwealth, two representatives of organized labor, two representatives of State-wide business organizations and two members representing minority ethnic groups. The appointments may be made in any combination.

(b) The Secretary of Labor and Industry shall appoint subcommittees which may or may not have overlapping membership with the committee. These subcommittees shall include, but not be limited to, a subcommittee on farm labor, a subcommittee on child labor, a subcommittee on industrial homework and a subcommittee on women and minorities in the workforce.

(c) The committee shall have the power to advise the department on all issues and regulations within the department's jurisdiction. The committee shall also be specifically responsible for advising the department on those topics previously assigned to the Industrial Board, including farm labor, child labor, industrial homework and women in the workforce, as well as on plans to regularize or improve employment opportunities.

(d) The committee may consider, study and investigate the work of the department and issue reports, and may request the department to investigate or survey any subject within the department's jurisdiction. The committee may also study any issue area relevant to the department's jurisdiction and make reports.

(e) The director of the Office of Policy, Planning and Evaluation within the department shall serve as executive director of the committee. The executive director shall be responsible for providing the committee with such materials and information as may be necessary for the conduct of the committee's business.

(f) Committee and subcommittee members shall receive the amount of reasonable traveling, hotel and other necessary expenses incurred in the performance of their duties in accordance with Commonwealth regulations.

Section 7. Section 2214 of the act is amended to read:

Section 2214. Industrial Board.—The Industrial Board created by this act shall have the power, and its duty shall be:

(a) To meet at least once each month for the purpose of considering such matters as are brought before it or the Secretary of Labor and Industry shall request;

(b) To hold hearings with reference to the application by the department of the laws **[affecting labor] specified in subsection (h)**, upon appeal either of employes or employers or of the public and, after such hearings, to make recommendations to the department;

(c) To **[approve or disapprove the rules and regulations established by the Department of Labor and Industry, and to]** make suggestions to the department for the formulation of **[such]** rules and regulations *within its jurisdiction*;

[(d) To consider, study, and investigate the conduct of the work of the Department of Labor and Industry. For this purpose, the board shall have access at any time to all books, papers, documents, and records pertaining to or belonging to the department, and may require oral or written information from any officer or employe thereof.]

(d) To retain the power to grant variances and hear appeals within its jurisdiction arising out of the enforcement actions of the department consistent with the powers granted to the board by section 14 of the act of June 2, 1913 (P.L.396, No.267), entitled "An act creating a Department of Labor and Industry; defining its powers and duties; establishing an Industrial Board; providing for the appointment of a Commissioner of Labor, inspectors, statisticians, clerks, and others to enforce the provisions of this act, and providing salaries for the same; prescribing a standard of reasonable and adequate protection to be observed in the rooms, buildings, and places where labor is employed; empowering the said Industrial Board to make, alter, amend, and repeal rules and regulations relating thereto; transferring the powers and duties of the Department of Factory Inspection to the Department of Labor and Industry, and abolishing the Department of Factory Inspection; and providing a penalty for the violation of the provisions of this act, or the rules and regulations of the said board."

(e) To perform any other duties assigned to the board by the Secretary of Labor and Industry;

(f) To request or initiate investigations and make reports on all matters within its jurisdiction. The department shall cooperate with the board and provide such information as the board may request;

(g) To establish such technical advisory boards or committees as may be necessary for the performance of its duties, including, but not limited to, a Fire and Panic Advisory Board, an Elevator Advisory Board and a Boiler Advisory Board;

(h) To have jurisdiction under the following acts:

(1) The act of May 30, 1895 (P.L.129, No.99), entitled "An act to provide for safety guards upon passenger elevators and providing a penalty for violation thereof."

(2) The act of April 27, 1927 (P.L.465, No.299), referred to as the Fire and Panic Act.

(3) *The act of May 2, 1929 (P.L.1513, No.451), referred to as the Boiler Regulation Law.*

(4) *The act of May 2, 1929 (P.L.1518, No.452), referred to as the Elevator Regulation Law.*

(5) *The act of May 18, 1937 (P.L.654, No.174), entitled, as amended, "An act to provide for the safety and to protect the health and morals of persons while employed; prescribing certain regulations and restrictions concerning places where persons are employed, and the equipment, apparatus, materials, devices and machinery used therein; prescribing certain powers and duties of the Department of Labor and Industry relative to the enforcement of this act; and fixing penalties."*

(6) *The act of May 27, 1937 (P.L.926, No.249), referred to as the Bedding and Upholstery Law.*

(7) *The act of July 31, 1941 (P.L.616, No.261), known as the "Employment Agency Law."*

(8) *The act of May 14, 1949 (P.L.1342, No.402), known as the "Dry Cleaning and Dyeing Law."*

(9) *The act of December 27, 1951 (P.L.1793, No.475), referred to as the Liquefied Petroleum Gas Act.*

(10) *The act of July 25, 1961 (P.L.857, No.372), referred to as the Stuffed Toy Manufacturing Act.*

(11) *The act of August 22, 1961 (P.L.1034, No.467), entitled "An act requiring a guard to be posted when a manhole is entered; imposing powers and duties on the Department of Labor and Industry; and authorizing said department to promulgate rules and regulations relating to manholes, and providing penalties."*

(12) *The act of June 2, 1971 (P.L.115, No.5), entitled "An act requiring the use of safety glazing materials in hazardous locations in residential, commercial and public buildings, imposing duties on the Department of Labor and Industry and providing penalties."*

(13) *Any other acts assigned by the Secretary of Labor and Industry.*

Section 8. This act, with respect to the Industrial Board, shall constitute the legislation required to reestablish an agency pursuant to the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.

Section 9. The presently confirmed members of the Industrial Board shall continue to serve as board members until members replacing them are appointed and qualified.

Section 10. All powers heretofore vested in the Industrial Board to promulgate, approve or disapprove, or review regulations of the Department of Labor and Industry are hereby transferred to the Secretary of Labor and Industry. Nothing in the act shall be construed to diminish in any way the powers and duties of the Department of Labor and Industry. All powers and duties previously assigned to the Industrial Board which are inconsistent with this act are hereby transferred to the Secretary of Labor and Industry.

Section 11. Each rule, regulation and fee of the Industrial Board and the Department of Labor and Industry in effect on the effective date of this act shall remain in effect after such date until repealed or amended by the Secretary of Labor and Industry in the manner provided by law.

Section 12. (a) The following acts or parts of acts are repealed insofar as they are inconsistent with this act:

Sections 13 and 15 of the act of June 2, 1913 (P.L.396, No.267), entitled "An act creating a Department of Labor and Industry; defining its powers and duties; establishing an Industrial Board; providing for the appointment of a Commissioner of Labor, inspectors, statisticians, clerks, and others to enforce the provisions of this act, and providing salaries for the same; prescribing a standard of reasonable and adequate protection to be observed in the rooms, buildings, and places where labor is employed; empowering the said Industrial Board to make, alter, amend, and repeal rules and regulations relating thereto; transferring the powers and duties of the Department of Factory Inspection to the Department of Labor and Industry, and abolishing the Department of Factory Inspection; and providing a penalty for the violation of the provisions of this act, or the rules and regulations of the said board."

Act of July 25, 1913 (P.L.1024, No.466), entitled "An act to protect the public health and welfare, by regulating the employment of females in certain establishments, with respect to their hours of labor and the conditions of their employment; by establishing certain sanitary regulations in the establishments in which they work; by requiring certain abstracts and notices to be posted; by providing for the enforcement of this act by the Commissioner of Labor and Industry and others; by prescribing penalties for violations thereof; by defining the procedure in prosecutions; and by repealing all acts and parts of acts inconsistent with the provisions thereof."

Sections 5, 7.1 and 18.1 of the act of May 13, 1915 (P.L.286, No.177), known as the Child Labor Law.

Section 22 of the act of May 18, 1937 (P.L.665, No.176), known as the Industrial Homework Law.

Section 503 of the act of June 23, 1978 (P.L.537, No.93), known as the Seasonal Farm Labor Act.

(b) All other acts or parts of act are repealed insofar as they are inconsistent with this act.

Section 13. This act shall take effect July 1, 1988, or immediately, whichever is later.

APPROVED—The 30th day of June, A. D. 1988.

ROBERT P. CASEY