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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1994 Session of  
2024

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INTRODUCED BY BRIGGS, MADDEN, GREINER, McNEILL, KINSEY,  
BIZZARRO, KAZEEM, SANCHEZ, CEPEDA-FREYTIZ, HILL-EVANS,  
WARREN, D. WILLIAMS, GREEN, MAYES, BOROWSKI, MUNROE, D'ORSIE,  
WATRO, DIAMOND, JOZWIAK, MERCURI, ROWE, FRITZ, GROVE, PICKETT  
AND RADER, JANUARY 31, 2024

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REFERRED TO COMMITTEE ON FINANCE, JANUARY 31, 2024

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AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An  
2 act relating to tax reform and State taxation by codifying  
3 and enumerating certain subjects of taxation and imposing  
4 taxes thereon; providing procedures for the payment,  
5 collection, administration and enforcement thereof; providing  
6 for tax credits in certain cases; conferring powers and  
7 imposing duties upon the Department of Revenue, certain  
8 employers, fiduciaries, individuals, persons, corporations  
9 and other entities; prescribing crimes, offenses and  
10 penalties," in procedure and administration, further  
11 providing for definitions and for review by board and  
12 providing for settlement conference process.

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

15 Section 1. Section 2701 of the act of March 4, 1971 (P.L.6,  
16 No.2), known as the Tax Reform Code of 1971, is amended by  
17 adding a definition to read:

18 Section 2701. Definitions.

19 The following words and phrases when used in this article  
20 shall have the meanings given to them in this section unless the  
21 context clearly indicates otherwise:

1 \* \* \*

2 "Treasurer." The State Treasurer of the Commonwealth.

3 Section 2. Section 2704(d.7) of the act is amended and the  
4 section is amended by adding a subsection to read:

5 Section 2704. Review by board.

6 \* \* \*

7 (a.1) Extension for filing petition.--Notwithstanding any  
8 provision to the contrary, the date for filing a petition  
9 required under this article with the board may be extended by  
10 the board upon:

11 (1) written application for good cause shown; and

12 (2) a finding that granting the application will not  
13 prejudice the other party.

14 \* \* \*

15 [(d.7) Compromise settlement.--The board shall establish  
16 procedures to facilitate the compromise settlement of issues on  
17 appeal. A compromise settlement shall be ordered by the board  
18 only with the agreement of both the petitioner and the  
19 department. The provisions of section 2707(c) shall be  
20 applicable to compromise settlements under this section.]

21 \* \* \*

22 Section 3. The act is amended by adding a section to read:

23 Section 2704.1. Settlement conference process.

24 (a) Settlement officer.--The board shall appoint one or more  
25 individuals to serve as a settlement officer for a settlement  
26 conference initiated under subsection (b), to whom the following  
27 shall apply:

28 (1) A settlement officer may be either an employee of  
29 the board or a third-party contractor retained by the board.

30 (2) A settlement officer:

1           (i) must be a citizen of the United States;

2           (ii) must be an attorney in good standing before the  
3 Supreme Court of Pennsylvania or a certified public  
4 accountant in good standing before the State Board of  
5 Accountancy;

6           (iii) must have significant experience in a position  
7 requiring substantial knowledge of Pennsylvania tax law;  
8 and

9           (iv) may not be employed by the department, board or  
10 the treasurer, other than in the capacity as a settlement  
11 officer.

12       (3) A settlement officer shall:

13           (i) be fair and impartial and is not permitted to  
14 preside over a settlement conference if the settlement  
15 officer cannot conduct it in an impartial manner; and

16           (ii) disclose, as soon as practicable, all actual  
17 and potential conflicts of interest that are reasonably  
18 known to the settlement officer and could reasonably be  
19 seen as raising a question about the officer's interest  
20 in the outcome unless the petitioner and the department  
21 consent in writing.

22       (4) The board may remove a settlement officer at its  
23 sole discretion.

24       (5) The treasurer shall set the compensation for a  
25 settlement officer.

26       (b) Request for settlement conference.--Notwithstanding  
27 section 2704(f)(1), either party may submit a request for, or  
28 the board may direct, a settlement conference to settle a  
29 petition for review of a decision and order under the board's  
30 jurisdiction. The request for a settlement conference shall be

1 submitted to the board, unless the settlement conference is  
2 directed by the board, by filing a written request with the  
3 petition or within 30 days of the petition being filed. The  
4 board may allow settlement conferences after the deadline in the  
5 exercise of discretion or upon application for good cause. The  
6 following shall apply:

7       (1) The board may defer consideration of the petition  
8 until after either party declines to participate in a  
9 settlement conference or the settlement conference is deemed  
10 terminated under subsection (e). If the board defers  
11 consideration of the petition, the board shall issue a  
12 decision and order disposing of the petition within six  
13 months of the party's refusal to participate in a settlement  
14 conference or termination.

15       (2) The party requesting a settlement conference shall  
16 simultaneously notify the other party or parties and the  
17 board of the request, unless the board initiated the  
18 settlement conference.

19       (3) A request for settlement must provide a brief  
20 description of the dispute and the relief requested. The  
21 nonrequesting party or parties must file a written response  
22 with the board and provide a copy to the requesting party in  
23 support of or opposition to the settlement conference within  
24 10 business days of the requestor's submission.

25       (4) The board, within five business days of receipt of  
26 the response in support of or opposition to the settlement  
27 conference, shall notify the parties in writing whether the  
28 board will refer an appeal to a settlement conference.

29       (5) A petitioner may decline to participate in a  
30 settlement conference upon providing the board with written

1 notice of its intent not to participate within five business  
2 days of receipt of notice of the referral.

3 (c) Settlement conference.--The following shall apply to a  
4 settlement conference requested under subsection (b):

5 (1) A settlement conference shall be held no later than  
6 60 days from the date the board refers a case for settlement  
7 conference.

8 (2) The settlement officer shall set the date, time and  
9 place for each conference. The parties shall respond to  
10 requests for conference dates in a timely manner, be  
11 cooperative in scheduling the earliest practicable date and  
12 adhere to the established conference schedule. The settlement  
13 officer, in the exercise of discretion or upon application  
14 for good cause, may reschedule a conference. The settlement  
15 officer shall provide notice of the conference to the parties  
16 in advance of the conference date.

17 (3) A settlement conference and related settlement  
18 conference communications are private proceedings. A  
19 representative of each party must attend each settlement  
20 conference. A party is not required to attend each settlement  
21 conference unless the party does not have representation.  
22 Other individuals may attend a settlement conference only  
23 with the permission of the parties and with the consent of  
24 the settlement officer.

25 (4) A settlement conference may be conducted virtually  
26 or in person.

27 (5) A settlement conference may not be recorded  
28 electronically or in any other manner, regardless of the  
29 consent of the parties.

30 (6) The following shall apply to representation at a

1 settlement conference:

2 (i) A party is not required to retain representation  
3 for a settlement conference.

4 (ii) If a party retains representation, the party  
5 may be represented at a settlement conference by any  
6 individual of the party's choosing.

7 (iii) Each party must have a representative attend a  
8 settlement conference who has the authority to consummate  
9 a settlement, which shall include each party who has not  
10 retained representation.

11 (7) The settlement officer shall conduct the settlement  
12 conference in an informal manner with the purpose of  
13 facilitating a settlement between the petitioner and the  
14 department. The settlement officer is authorized to conduct  
15 separate or ex parte meetings and other communications with  
16 the parties, and any representatives of the parties, before,  
17 during and after any scheduled settlement conference.

18 (8) Prior to and during the scheduled settlement  
19 conference the parties and their representatives shall, as  
20 appropriate to each party's circumstances, exercise best  
21 efforts to prepare for and engage in a meaningful and  
22 productive settlement conference.

23 (9) The parties are encouraged to exchange all documents  
24 pertinent to the relief requested. The settlement officer may  
25 request the exchange of memoranda on issues, including the  
26 underlying interests and the history of the parties'  
27 negotiations. Information that a party wishes to keep  
28 confidential may be sent to the settlement officer, as  
29 necessary, in a separate communication with the settlement  
30 officer.

1       (10) Confidential information disclosed to a settlement  
2 officer by a party in the course of a settlement conference  
3 shall not be divulged by the settlement officer. The  
4 settlement officer shall maintain the confidentiality of all  
5 information obtained in the settlement conference, and all  
6 records, reports or other documents received by the  
7 settlement officer while serving in that capacity shall be  
8 confidential. The settlement officer shall be subject to the  
9 provisions and penalties of section 731 of the act of April  
10 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

11       (11) The settlement officer must return to each  
12 respective party all documents containing confidential  
13 information presented at the settlement conference within 30  
14 days after the earlier of the date that the board accepts a  
15 settlement, or the board mails its order deciding the case.

16       (12) A party must submit to the board any documents  
17 intended to be used in support of the party's appeal. The  
18 documents must be submitted in accordance with the rules and  
19 procedures of the board for submitting additional evidence.

20       (13) The settlement officer shall not be compelled to  
21 divulge confidential records or to testify in regard to the  
22 settlement conference in any administrative, judicial or  
23 other proceeding.

24       (14) No confidential or privileged document or other  
25 record presented or included in a settlement conference shall  
26 be subject to the act of February 14, 2008 (P.L.6, No.3),  
27 known as the Right-to-Know-Law.

28       (15) Each party to a settlement conference shall  
29 maintain the confidentiality of the settlement conference and  
30 shall not rely on or introduce as evidence in any

1 administrative, judicial or other proceeding the following,  
2 unless agreed to by the parties or required by applicable  
3 law:

4 (i) Views expressed or suggestions made by a party  
5 or other participant with respect to a possible  
6 settlement of the dispute.

7 (ii) Admissions made by a party or other participant  
8 in the course of the settlement conference.

9 (iii) Proposals made or views expressed by the  
10 settlement officer.

11 (iv) The fact that a party had or had not indicated  
12 willingness to accept a proposal for settlement made by  
13 the settlement officer.

14 (16) A settlement officer is not a legal representative  
15 of any party and has no fiduciary duty to any party.

16 (d) Post-settlement conference procedures.--

17 (1) The settlement officer shall evaluate the merits of  
18 a dispute during the settlement conference. The evaluations  
19 shall be communicated to each party privately or, if the  
20 parties agree, to all parties jointly. Unless parties agree  
21 otherwise, evaluations shall be communicated orally.

22 (2) The settlement officer does not have the authority  
23 to impose a settlement on the parties. Subject to the  
24 discretion of the settlement officer, the officer may make  
25 oral or written recommendations for settlement to a party  
26 privately or, if the parties agree, to all parties jointly.

27 (3) In the event a settlement of all or some of the  
28 issues in dispute is not achieved within the scheduled  
29 settlement conference, the settlement officer may continue to  
30 communicate with the parties for a period of time not to



1 exceed 30 days from the date of the settlement conference,  
2 during which time the parties agree to negotiate in earnest  
3 in an ongoing effort to facilitate a complete settlement.

4 (4) If the parties to a settlement conference come to an  
5 agreement, the parties shall present the terms of the  
6 settlement to the board for approval in writing signed by all  
7 parties within 10 business days after reaching the  
8 settlement. The settlement agreement shall be approved by the  
9 board if the board determines the agreement is not contrary  
10 to law.

11 (5) If the parties to a settlement conference cannot  
12 reach a settlement of any or all of the issues, the board  
13 shall proceed in accordance with the procedure specified in  
14 this act and regulations.

15 (6) A settlement agreement shall not be considered as  
16 precedent and cannot be appealed.

17 (e) Termination of a settlement conference.--The settlement  
18 conference shall be terminated:

19 (1) by the board approving a settlement agreement by the  
20 parties;

21 (2) by a written declaration by the settlement officer  
22 that further efforts at a settlement conference would not  
23 contribute to a resolution of the parties' dispute;

24 (3) by a written declaration of all parties that the  
25 settlement conference is terminated; or

26 (4) when the settlement officer has represented in  
27 writing to the board that there has been no communication  
28 between the settlement officer and any party or party's  
29 representative for 21 days following the conclusion of the  
30 settlement conference.

1     (f) Exclusion of liability.--A settlement officer is not a  
2 necessary or proper party in administrative, judicial or other  
3 proceedings relating to the settlement conference.  
4 Notwithstanding any provision of law to the contrary, parties to  
5 a settlement conference under this section shall be deemed to  
6 have consented that the settlement officer shall not be liable  
7 to any party for any error, act or omission in connection with  
8 any settlement conference conducted under this section. Parties  
9 to a settlement conference under this section may not call a  
10 settlement officer as a witness in litigation or any other  
11 proceeding relating to the settlement conference. The settlement  
12 officer is not competent to testify as a witness in any  
13 proceeding related to the settlement conference.

14     (g) Rules and regulations.--The board may adopt rules and  
15 regulations necessary to effectuate this section.

16     (h) Laws not applicable.--The provisions of 2 Pa.C.S.  
17 (relating to administrative law and procedure) shall not apply  
18 to a settlement conference conducted under this section.

19     Section 4. This act shall take effect in 60 days.