

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 809 Session of 2019

INTRODUCED BY BAKER, FOLMER, MUTH, LEACH, COLLETT, KEARNEY, BLAKE, SCHWANK, HUGHES, SANTARSIERO, YUDICHAK, COSTA, BREWSTER, HAYWOOD, FARNESE, IOVINO, BOSCOLA AND FONTANA, AUGUST 7, 2019

SENATOR BAKER, JUDICIARY, AS AMENDED, NOVEMBER 18, 2019

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in Judicial Conduct
3 Board, further providing for staff and operations and
4 establishing the Pennsylvania Commission on Legislative
5 Conduct.

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

8 Section 1. Section 2104 of Title 42 of the Pennsylvania
9 Consolidated Statutes is amended to read:

10 § 2104. Staff and operations.

11 (a) Operations.--The Judicial Conduct Board shall [appoint]
12 do all of the following:

13 (1) Appoint a chief counsel and other staff.

14 (2) Subject to section 2107(a)(2) (relating to
15 Pennsylvania Commission on Legislative Conduct), prepare and
16 administer its own budget as provided by law[, exercise].

17 (3) Exercise supervisory and administrative authority
18 over all board staff and board functions[, establish].

1 (4) Establish and promulgate its own rules of
2 procedure[, prepare].

3 (5) Employ staff for the Pennsylvania Commission on
4 Legislative Conduct, consisting of an attorney at law to
5 serve as executive director. The board may utilize this staff
6 to perform other board functions which do not materially and
7 adversely impact commission functions.

8 (6) Prepare and disseminate an annual report [and take].

9 (7) Take other actions as are necessary to ensure its
10 efficient operation.

11 (b) Budget.--The budget request of the board shall be made
12 by the board as a separate item in the request submitted by the
13 Supreme Court on behalf of the [Judicial Board] board to the
14 General Assembly.

15 Section 2. Title 42 is amended by adding a section to read:
16 § 2107. Pennsylvania Commission on Legislative Conduct.

17 (a) Establishment and duties.--

18 (1) The Pennsylvania Commission on Legislative Conduct
19 is established as a unit of the Judicial Conduct Board.

20 (2) The commission shall prepare and administer its own
21 budget. The budget request of the commission shall be made as
22 a separate item in the board's budget under section 2104(a)

23 (2) (relating to staff and operations). The commission shall
24 exercise supervisory and administrative authority over:

25 (i) commission staff under section 2104(a) (5); and

26 (ii) commission functions.

27 (3) For conduct within the scope of their duties,
28 commissioners and commission staff under section 2104(a) (5):

29 (i) enjoy sovereign immunity and official immunity
30 and remain immune from suit under 1 Pa.C.S. § 2310

1 (relating to sovereign immunity reaffirmed; specific
2 waiver); and

3 (ii) are immune from professional or occupational
4 administrative disciplinary action.

5 (b) Membership.--

6 (1) Except for an appointee who is a member of the
7 General Assembly, all of the following subparagraphs apply:

8 (i) An appointee must not be an elected public
9 officer or a public employee of the Commonwealth.

10 (ii) An appointee must have expertise in one of the
11 following areas:

12 (A) Human relations.

13 (B) Personnel.

14 (C) Law related to discrimination or harassment
15 based on:

16 (I) race, national origin or ancestry;

17 (II) sex;

18 (III) age;

19 (IV) religion;

20 (V) education, specifically including the
21 type of high school diploma received; or

22 (VI) disability, including use of a guide or
23 support animal for disability and relationship to
24 an individual with a disability.

25 (D) Finance.

26 (E) Financial disclosure requirements.

27 (2) Commissioners shall be appointed as follows:

28 (i) The President pro tempore of the Senate shall
29 appoint:

30 (A) one commissioner who is a member of the

1 Senate; and

2 (B) two additional commissioners WHO ARE NOT <--
3 MEMBERS OF THE GENERAL ASSEMBLY.

4 (ii) The Minority Leader of the Senate shall
5 appoint:

6 (A) one commissioner who is a member of the
7 Senate; and

8 (B) two additional commissioners WHO ARE NOT <--
9 MEMBERS OF THE GENERAL ASSEMBLY.

10 (iii) The Speaker of the House of Representatives
11 shall appoint:

12 (A) one commissioner who is a member of the
13 House of Representatives; and

14 (B) two additional commissioners WHO ARE NOT <--
15 MEMBERS OF THE GENERAL ASSEMBLY.

16 (iv) The Minority Leader of the House of
17 Representatives shall appoint:

18 (A) one commissioner who is a member of the
19 House of Representatives; and

20 (B) two additional commissioners WHO ARE NOT <--
21 MEMBERS OF THE GENERAL ASSEMBLY.

22 (v) The board shall appoint one member.

23 (c) Terms.--

24 (1) Except as set forth in paragraph (2), a commissioner
25 shall serve at the pleasure of the appointing authority and
26 until a successor is appointed.

27 (2) A commissioner under subsection (b) (2) (i) (A), (ii)
28 (A), (iii) (A) or (iv) (A) shall serve ex officio.

29 (d) Procedure.--

30 (1) A majority of the commissioners constitute a quorum.

1 (2) Action of the commission must be taken by a majority
2 vote of the commissioners present.

3 (3) The commissioner under subsection (b) (2) (v):

4 (i) shall be counted for purposes of determining a
5 quorum; but

6 (ii) may only vote if there is a tie on a question
7 before the commission.

8 (4) All of the following apply to complaints under
9 subsection (e):

10 (i) A complaint may be made anonymously.

11 (ii) A complaint from a named source must be in
12 writing and verified.

13 (iii) A complaint is subject to 18 Pa.C.S. § 4904
14 (relating to unsworn falsification to authorities).

15 (iv) A civil action AGAINST AN INDIVIDUAL FILING A <--
16 COMPLAINT WITH THE COMMISSION may not be predicated upon
17 the filing of a THE complaint. <--

18 (v) Professional or occupational administrative
19 disciplinary action AGAINST AN INDIVIDUAL FILING A <--
20 COMPLAINT WITH THE COMMISSION may not be predicated upon
21 the filing of a THE complaint. <--

22 (5) The commission may promulgate regulations to govern
23 procedure.

24 (e) Jurisdiction.--The commission has jurisdiction over a
25 complaint filed by a person or initiated by the commission
26 against a seated member of the General Assembly alleging any of
27 the following:

28 (1) The member has engaged in conduct in violation of a
29 provision of the Constitution of Pennsylvania or a statutory
30 provision.

1 (2) The member has violated any of the following:
2 (i) The Ethical Conduct Rules of the Senate.
3 (ii) The Financial Operating Rules of the Senate.
4 (iii) The Ethical and Professional Conduct Rules of
5 the House of Representatives.

6 (3) The member has been sentenced for an offense graded
7 higher than a misdemeanor of the first degree.

8 (f) Hearing.--

9 (1) Upon filing of a complaint under subsection (e), the
10 commission may recommend interim action and shall conduct a
11 hearing. A hearing under this subsection is subject to 2
12 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of
13 Commonwealth agencies).

14 (2) The commission may issue a subpoena to require
15 testimony or produce a document and may enforce the subpoena
16 in Commonwealth Court under section 761(a)(2) (relating to
17 original jurisdiction).

18 (3) If the subject of a hearing is charged with a felony
19 by indictment or by filing of an information, the hearing
20 shall be suspended pending resolution of the criminal charge.

21 (4) A civil action AGAINST AN INDIVIDUAL PROVIDING A <--
22 DOCUMENT UNDER PARAGRAPH (2) OR PROVIDING TESTIMONY IN A
23 HEARING may not be predicated upon any of the following:

24 (i) ~~Submission of a~~ THE SUBMISSION OF THE document <--
25 under paragraph (2).

26 (ii) ~~Testimony in a~~ THE TESTIMONY IN THE hearing. <--

27 (5) Professional or occupational administrative
28 disciplinary action AGAINST AN INDIVIDUAL PROVIDING A <--
29 DOCUMENT UNDER PARAGRAPH (2) OR PROVIDING TESTIMONY IN A
30 HEARING may not be predicated upon any of the following:

1 (i) ~~Submission of a~~ THE SUBMISSION OF THE document <--
2 under paragraph (2).

3 (ii) ~~Testimony in a~~ THE TESTIMONY IN THE hearing. <--

4 (g) Findings and recommendations.--Upon conclusion of a
5 hearing under subsection (f):

6 (1) The commission shall issue findings of fact.

7 (2) The commission shall recommend one of the following
8 to the appropriate chamber of the General Assembly:

9 (i) Exoneration of the member.

10 (ii) Reprimand of the member.

11 (iii) Removal of the member from assignments to
12 committees and from other assignments.

13 (iv) Expulsion of the member under section 11 of
14 Article II of the Constitution of Pennsylvania.

15 (v) Any other discipline authorized by the
16 Constitution of Pennsylvania or warranted by the hearing.

17 (h) Right-to-Know Law.--For purposes of paragraph (2) of the
18 definition of public record in section 102 of the act of
19 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law,
20 all of the following apply:

21 (1) The following are exempt from being disclosed:

22 (i) The contents of a complaint under subsection
23 (e), unless the exemption is waived by all of the
24 following:

25 (A) The subject of the complaint.

26 (B) The person that filed the complaint. This
27 clause does not apply to a complaint initiated by the
28 commission.

29 (ii) Information or evidence acquired by the
30 commission in the conduct of a hearing under subsection

1 (f), unless the exemption is waived by all of the
2 following:

3 (A) The subject of the complaint.

4 (B) The person that filed the complaint. This
5 clause does not apply to a complaint initiated by the
6 commission.

7 (2) The following are not exempt from being disclosed:

8 (i) The filing of a complaint under subsection (e).

9 (ii) Recommendations under subsection (g)(2).

10 (i) Annual report.--The commission shall submit an annual
11 report to the Secretary of the Senate and the Chief Clerk of the
12 House of Representatives.

13 Section 3. This act shall take effect immediately.