
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1051 Session of
2024

INTRODUCED BY HUTCHINSON, DUSH, ARGALL, AUMENT, PENNYCUICK,
GEBHARD, YAW, BAKER, J. WARD, BROOKS, ROTHMAN, BROWN AND
CULVER, JANUARY 29, 2024

REFERRED TO FINANCE, JANUARY 29, 2024

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 review by board and providing for settlement
12 conference process.

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

15 Section 1. Section 2704(d.7) of the act of March 4, 1971
16 (P.L.6, No.2), known as the Tax Reform Code of 1971, is amended
17 and the section is amended by adding a subsection to read:

18 Section 2704. Review by board.

19 * * *

20 (a.1) Extension for filing petition.--Notwithstanding any
21 provision to the contrary, the date for filing a petition
22 required under this article with the board may be extended by

1 the board upon:

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

3 (2) a finding that granting the application will not
4 prejudice the other party.

5 * * *

6 [(d.7) Compromise settlement.--The board shall establish
7 procedures to facilitate the compromise settlement of issues on
8 appeal. A compromise settlement shall be ordered by the board
9 only with the agreement of both the petitioner and the
10 department. The provisions of section 2707(c) shall be
11 applicable to compromise settlements under this section.]

12 * * *

13 Section 2. The act is amended by adding a section to read:

14 Section 2704.1. Settlement conference process.

15 (a) Settlement officer.--The board shall appoint one or more
16 individuals to serve as a settlement officer for a settlement
17 conference initiated under subsection (b), to whom the following
18 shall apply:

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

21 (2) A settlement officer:

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

23 (ii) must be an attorney in good standing before the
24 Supreme Court of Pennsylvania or a certified public
25 accountant in good standing before the State Board of
26 Accountancy;

27 (iii) must have significant experience in a position
28 requiring substantial knowledge of Pennsylvania tax law;
29 and

30 (iv) may not be employed by the department, board or

1 the State Treasurer, other than in the capacity as a
2 settlement officer.

3 (3) A settlement officer shall:

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

7 (ii) disclose, as soon as practicable, all actual
8 and potential conflicts of interest that are reasonably
9 known to the settlement officer and could reasonably be
10 seen as raising a question about the officer's interest
11 in the outcome unless the petitioner and the department
12 consent in writing.

13 (4) The board may remove a settlement officer at its
14 sole discretion.

15 (5) The State Treasurer shall set the compensation for a
16 settlement officer.

17 (b) Request for settlement conference.--Notwithstanding
18 section 2704(f) (1), either party may submit a request for, or
19 the board may direct, a settlement conference to settle a
20 petition for review of a decision and order under the board's
21 jurisdiction. The request for a settlement conference shall be
22 submitted to the board, unless the settlement conference is
23 directed by the board, by filing a written request with the
24 petition or within 30 days of the petition being filed. The
25 board may allow settlement conferences after the deadline in the
26 exercise of discretion or upon application for good cause. The
27 following shall apply:

28 (1) The board may defer consideration of the petition
29 until after either party declines to participate in a
30 settlement conference or the settlement conference is deemed

1 terminated under subsection (e). If the board defers
2 consideration of the petition, the board shall issue a
3 decision and order disposing of the petition within six
4 months of the party's refusal to participate in a settlement
5 conference or termination.

6 (2) The party requesting a settlement conference shall
7 simultaneously notify the other party or parties and the
8 board of the request, unless the board initiated the
9 settlement conference.

10 (3) A request for settlement must provide a brief
11 description of the dispute and the relief requested. The
12 nonrequesting party or parties must file a written response
13 with the board and provide a copy to the requesting party in
14 support of or opposition to the settlement conference within
15 10 business days of the requestor's submission.

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

20 (5) A petitioner may decline to participate in a
21 settlement conference upon providing the board with written
22 notice of its intent not to participate within five business
23 days of receipt of notice of the referral.

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

26 (1) A settlement conference shall be held no later than
27 60 days from the date the board refers a case for settlement
28 conference.

29 (2) The settlement officer shall set the date, time and
30 place for each conference. The parties shall respond to

1 requests for conference dates in a timely manner, be
2 cooperative in scheduling the earliest practicable date and
3 adhere to the established conference schedule. The settlement
4 officer, in the exercise of discretion or upon application
5 for good cause, may reschedule a conference. The settlement
6 officer shall provide notice of the conference to the parties
7 in advance of the conference date.

8 (3) A settlement conference and related settlement
9 conference communications are private proceedings. A
10 representative of each party must attend each settlement
11 conference. A party is not required to attend each settlement
12 conference unless the party does not have representation.
13 Other individuals may attend a settlement conference only
14 with the permission of the parties and with the consent of
15 the settlement officer.

16 (4) A settlement conference may be conducted virtually
17 or in person.

18 (5) A settlement conference may not be recorded
19 electronically or in any other manner, regardless of the
20 consent of the parties.

21 (6) The following shall apply to representation at a
22 settlement conference:

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

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

28 (iii) Each party must have a representative attend a
29 settlement conference who has the authority to consummate
30 a settlement, which shall include each party who has not

1 retained representation.

2 (7) The settlement officer shall conduct the settlement
3 conference in an informal manner with the purpose of
4 facilitating a settlement between the petitioner and the
5 department. The settlement officer is authorized to conduct
6 separate or ex parte meetings and other communications with
7 the parties, and any representatives of the parties, before,
8 during and after any scheduled settlement conference.

9 (8) Prior to and during the scheduled settlement
10 conference the parties and their representatives shall, as
11 appropriate to each party's circumstances, exercise best
12 efforts to prepare for and engage in a meaningful and
13 productive settlement conference.

14 (9) The parties are encouraged to exchange all documents
15 pertinent to the relief requested. The settlement officer may
16 request the exchange of memoranda on issues, including the
17 underlying interests and the history of the parties'
18 negotiations. Information that a party wishes to keep
19 confidential may be sent to the settlement officer, as
20 necessary, in a separate communication with the settlement
21 officer.

22 (10) Confidential information disclosed to a settlement
23 officer by a party in the course of a settlement conference
24 shall not be divulged by the settlement officer. The
25 settlement officer shall maintain the confidentiality of all
26 information obtained in the settlement conference, and all
27 records, reports or other documents received by the
28 settlement officer while serving in that capacity shall be
29 confidential. The settlement officer shall be subject to the
30 provisions and penalties of section 731 of the act of April

1 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

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

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

11 (13) The settlement officer shall not be compelled to
12 divulge confidential records or to testify in regard to the
13 settlement conference in any administrative, judicial or
14 other proceeding.

15 (14) A confidential or privileged document or other
16 record presented or included in a settlement conference is
17 exempt from access under the act of February 14, 2008 (P.L.6,
18 No.3), known as the Right-to-Know-Law.

19 (15) Each party to a settlement conference shall
20 maintain the confidentiality of the settlement conference and
21 shall not rely on or introduce as evidence in any
22 administrative, judicial or other proceeding the following,
23 unless agreed to by the parties or required by applicable
24 law:

25 (i) Views expressed or suggestions made by a party
26 or other participant with respect to a possible
27 settlement of the dispute.

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

30 (iii) Proposals made or views expressed by the

1 settlement officer.

2 (iv) The fact that a party had or had not indicated
3 willingness to accept a proposal for settlement made by
4 the settlement officer.

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

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

8 (1) The settlement officer shall evaluate the merits of
9 a dispute during the settlement conference. The evaluations
10 shall be communicated to each party privately or, if the
11 parties agree, to all parties jointly. Unless parties agree
12 otherwise, evaluations shall be communicated orally.

13 (2) The settlement officer does not have the authority
14 to impose a settlement on the parties. Subject to the
15 discretion of the settlement officer, the officer may make
16 oral or written recommendations for settlement to a party
17 privately or, if the parties agree, to all parties jointly.

18 (3) In the event a settlement of all or some of the
19 issues in dispute is not achieved within the scheduled
20 settlement conference, the settlement officer may continue to
21 communicate with the parties for a period of time not to
22 exceed 30 days from the date of the settlement conference,
23 during which time the parties agree to negotiate in earnest
24 in an ongoing effort to facilitate a complete settlement.

25 (4) If the parties to a settlement conference come to an
26 agreement, the parties shall present the terms of the
27 settlement to the board for approval in writing signed by all
28 parties within 10 business days after reaching the
29 settlement. The settlement agreement shall be approved by the
30 board if the board determines the agreement is not contrary

1 to law.

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

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

8 (e) Termination of a settlement conference.--The settlement
9 conference shall be terminated:

10 (1) by the board approving a settlement agreement by the
11 parties;

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

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

17 (4) when the settlement officer has represented in
18 writing to the board that there has been no communication
19 between the settlement officer and any party or party's
20 representative for 21 days following the conclusion of the
21 settlement conference.

22 (f) Exclusion of liability.--A settlement officer is not a
23 necessary or proper party in administrative, judicial or other
24 proceedings relating to the settlement conference.

25 Notwithstanding any provision of law to the contrary, parties to
26 a settlement conference under this section shall be deemed to
27 have consented that the settlement officer shall not be liable
28 to any party for any error, act or omission in connection with
29 any settlement conference conducted under this section. Parties
30 to a settlement conference under this section may not call a

1 settlement officer as a witness in litigation or any other
2 proceeding relating to the settlement conference. The settlement
3 officer is not competent to testify as a witness in any
4 proceeding related to the settlement conference.

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

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

10 Section 3. This act shall take effect in 60 days.