

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 358 Session of 2023

INTRODUCED BY BAKER, SCHWANK, COLEMAN, PHILLIPS-HILL, COLLETT AND STEFANO, FEBRUARY 21, 2023

REFERRED TO JUDICIARY, FEBRUARY 21, 2023

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].

19 (4) Establish and promulgate its own rules of

1 procedure[, prepare].

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

30 immunity and remain immune from suit under 1 Pa.C.S. §

1 2310 (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 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 Judicial Conduct Board shall appoint one  
23          member.

24          (c) Terms.--

25           (1) Except as provided under paragraph (2), a  
26           commissioner shall serve at the pleasure of the appointing  
27           authority and until a successor is appointed.

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

30          (d) Procedure.--

1           (1) A majority of the commissioners constitutes a  
2 quorum.

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

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

6           (i) shall be counted for purposes of determining a  
7 quorum; but

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

10          (4) All of the following apply to complaints under  
11 subsection (e):

12           (i) A complaint may be made anonymously.

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

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

17           (iv) A civil action against an individual filing a  
18 complaint with the commission may not be predicated upon  
19 the filing of the complaint.

20           (v) Professional or occupational administrative  
21 disciplinary action against an individual filing a  
22 complaint with the commission may not be predicated upon  
23 the filing of the complaint.

24          (5) The commission may promulgate regulations to govern  
25 procedure.

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

30           (1) The member has engaged in conduct in violation of a

1 provision of the Constitution of Pennsylvania or a statutory  
2 provision.

3 (2) The member has violated any of the following:

4 (i) The Ethical Conduct Rules of the Senate.

5 (ii) The Financial Operating Rules of the Senate.

6 (iii) The Ethical and Professional Conduct Rules of  
7 the House of Representatives.

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

10 (f) Hearing.--

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

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

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

23 (4) A civil action against an individual providing a  
24 document under paragraph (2) or providing testimony in a  
25 hearing may not be predicated upon any of the following:

26 (i) The submission of the document under paragraph

27 (2).

28 (ii) The testimony in the hearing.

29 (5) Professional or occupational administrative  
30 disciplinary action against an individual providing a

1 document under paragraph (2) or providing testimony in a  
2 hearing may not be predicated upon any of the following:

3 (i) The submission of the document under paragraph  
4 (2).

5 (ii) The testimony in the hearing.

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

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

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

11 (i) Exoneration of the member.

12 (ii) Reprimand of the member.

13 (iii) Removal of the member from assignments to  
14 committees and from other assignments.

15 (iv) Expulsion of the member under section 11 of  
16 Article II of the Constitution of Pennsylvania.

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

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

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

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

27 (A) The subject of the complaint.

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

1           (ii) Information or evidence acquired by the  
2           commission in the conduct of a hearing under subsection  
3           (f), unless the exemption is waived by all of the  
4           following:

5                   (A) The subject of the complaint.

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

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

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

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

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

15           Section 3. This act shall take effect immediately.