Summaries of Pennsylvania Administrative Agencies

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INTRODUCTION

The purpose of this section is to provide our readers with a general understanding of the composition, duties, and procedures of selected Pennsylvania administrative agencies and to provide a starting point for research. This section is not intended to be a comprehensive review of each agency's procedures or functions. Please consult the cited statutes, rules, and cases for a more thorough understanding of each agency.

BOARD OF CLAIMS

The Board of Claims (Board) is an independent administrative board charged with the duty to arbitrate claims against the Commonwealth that arise from state contracts. The three members of the Board are appointed by the Governor with the advice and consent of the Senate. The Chairperson is required to be trained in the field of law. The second member must be a registered civil engineer, and the remaining board member need only be a citizen and a resident of Pennsylvania. The Board is empowered to appoint three hearing panels to assist them in carrying out their duties. The panels are each composed of two members. One member must be trained in law, and the other must be a registered engineer. The three panels are known as the Eastern, Middle, and Western District Hearing Panels. Their territories are consistent with the three judicial districts of the United States District Courts of Pennsylvania. Administrative services for the Board are located with the Department of Auditor General. The practice and procedure before the Board is governed by the General Rules of Administrative Practice and Procedure. Appeals from the Board decisions must be taken to the Commonwealth Court.  

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1Permission to reprint this article has been granted by Widener Journal of Public Law and should be cited as "Pennsylvania Administrative Law and Legislative Digest -- Summaries of Selected Agencies," 2 Widener J. Pub. L. 863 (1993).

CIVIL SERVICE COMMISSION

The Civil Service Commission (Commission) was created to promote "[g]reater efficiency and economy in the administration of the government" by establishing employment conditions that would attract "qualified persons of character and ability" to Commonwealth employment.

The Commission consists of three commissioners appointed for six-year terms by the Governor. The Governor designates one commissioner to be the chairperson of the Commission. Commissioners can be removed by the Governor only for "incompetence, inefficiency, neglect of duty, malfeasance or misfeasance in office." The commissioners must meet at least once a month, with two commissioners constituting a quorum.

The Commission's primary function is to oversee the classified service (i.e., civil service employees). The Commission's staff creates and conducts examinations of persons applying to enter or seeking to be promoted in the classified service.

The Commission holds public hearings to determine whether an appointing authority has improperly transferred, discriminated against, demoted, furloughed, suspended, or removed a classified employee. The practice and procedure before the Commission is governed by the General Rules of Administrative Practice and Procedure.

Within ninety days after a hearing is concluded, a quorum of the Commission issues a written adjudication containing its findings of law and fact and the reasons for its decision. A party may petition the Commission to reconsider or modify an adjudication. Commission adjudications are reviewable by the Commonwealth Court.3

DEPARTMENT OF COMMERCE

The Department of Commerce (Department) was created to remedy economic conditions that were a threat to the health, safety, and welfare of the citizens of Pennsylvania. The Department's powers and duties

include: promoting and encouraging prosperous development of Pennsylvania business; promoting and researching uses and consumption of natural resources; investigating and remedying unemployment; eliminating unfair competition; encouraging the free flow of commerce; and engaging in other acts necessary to resolve physical development problems. The rules and regulations promulgated by the Department are set forth in the Pennsylvania Code. The practice and procedure before the department is governed by the General Rules of Administrative Practice and Procedure. There are two boards subject to the control of the Department: (1) the Board of the Ben Franklin Partnership; and (2) the Navigation Commission for the Delaware River. All appeals must be taken to the Commonwealth Court.4

DEPARTMENT OF EDUCATION

The Department of Education is administered by the Secretary of Education whose position is provided for in the Pennsylvania Constitution. The Secretary of Education serves as the chief executive officer of the State Board of Education (Board). This Board consists of twenty-one members. It includes members appointed by the Governor as well as other legislative members. The Board’s powers and duties include reviewing policy, formulating rules and regulations, adopting broad policies and principles, and establishing standards governing the educational program of the Commonwealth.

Teacher tenure hearings are subject to specific rules of practice and procedure. The Professional Standards and Practices Commission (Commission), operating under the auspices of the Board, conducts hearings regarding teacher certification. These hearings are conducted by a hearing officer who then makes recommendations to the Commission regarding teacher certification. An appeal from an order of the

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Commission is treated as an adjudication by a state agency and is appealable to the Court of Common Pleas of Dauphin county.\textsuperscript{5}

ENVIRONMENTAL HEARING BOARD

The Environmental Hearing Board (EHB) is an independent quasi-judicial board consisting of five members. The purpose of the EHB is to adjudicate appeals from the Department of Environmental Resources (DER). The members are administrative law judges appointed by the Governor. Each member must possess, at a minimum, five years of practice before administrative agencies or equivalent experience. The chairperson is designated by the Governor. The practice and procedure before the EHB is governed by the General Rules of Administrative Practice and Procedure.

The EHB is authorized to employ hearing examiners. The examiners must be attorneys who are in good standing before the Pennsylvania Bar. Each examiner must also have at least three years of practice before administrative agencies or equivalent experience. Appeals must be taken to the EHB within thirty days after notice is given by the DER of a decision. Appeals from EHB rulings must be taken to the Commonwealth Court.\textsuperscript{6}

HUMAN RELATIONS COMMISSION

The Human Relations Commission (Commission) consists of eleven members who are appointed by the Governor. The Commission conducts business subject to the provisions of the Administrative Code. The purpose of the Commission is to uphold the mandate of the Human Relations Act (HRA).

The Commission has the power to adopt, promulgate, amend, and rescind rules and regulations. It appoints permanent hearing examiners to uphold the HRA. Complaints for violations of the HRA are filed with and investigated by the Commission. Within ten days after a complaint is filed, the Commission must


make an initial determination whether the complaint shows probable cause that discrimination has taken place. If discrimination is found to have occurred, the Commission will attempt to eliminate it. If it is unable to do so, a hearing will be scheduled before the Commission. The practice and procedure before the Commission is governed by the General Rules of Administrative Practice and Procedure. If a complaint has been filed under the Fair Housing Act, Pub. L. No. 90-284, § 801, 82 Stat. 81 (codified as amended at 42 U.S.C. §§ 3601-3633 (1988 & Supp. II 1990)), either party may elect to have the claim asserted in a civil action brought under the original jurisdiction of the Commonwealth Court. If the hearing is held before the Commission, the losing party may then file an appeal with the Commonwealth Court.7

INSURANCE DEPARTMENT

The Insurance Department (Department) is led by the Insurance Commissioner (Commissioner). The Commissioner is appointed by the Governor and has the authority to decide controversies involving the Workmen's Compensation Security Fund, the State Workmen's Insurance Fund, and those pertaining to domestic insurers.

Pennsylvania law requires insurers to provide policyholders with a notice that explains the right to appeal to the Department, and therefore, a majority of the Department hearings address policy determination appeals. However, policyholders may seek review by the Department's Bureau of Consumer Services.

The practice and procedure before the Department is generally governed by the General Rules of Administrative Practice and Procedure. The Commissioner issues final orders after consulting with the Presiding Officer. Subsequent to this order, a formal evidentiary hearing before the Commissioner may be sought by either the insured or the insurer. Orders and adjudications issued by the Commissioner may be appealed to the Commonwealth Court.8


LIQUOR CONTROL BOARD

The Liquor Control Board (LCB) Consists of three members appointed by the Governor. The purpose of the LCB is to control the manufacture, possession, sale, consumption, importation, use, storage, transportation, and delivery of liquor, alcohol, and malt or brewed beverages as well as setting wholesale and retail prices at which liquor and alcohol may be sold in Pennsylvania liquor stores. The practice and procedure before the LCB is governed by the General Rules of Administrative Practice and Procedure.

Administrative Law Judges (ALJs) are appointed by the Governor to preside over all citations and enforcement hearings as well as issuing liquor licenses. The LCB may adopt regulations that are enforced by the ALJs who any impose sanctions as called for by statute. Licensing proceedings are held before hearing examiners who make recommendations to the LCB. Almost all appeals from the LCB must go to a Court of Common Pleas. 9

MILK MARKETING BOARD

The Milk Marketing Board (MMB) regulates the milk industry. The MMB is composed of three members who are appointed by the Governor. One member is designated as the chairperson. The MMB may appoint a secretary to hold office. The practice and procedure before the MMB is governed by the General Rules of Administrative Practice and Procedure.

The MMB holds hearings regarding, inter alia, the establishment of milk prices and whether or not to license particular business entities as milk dealers. Findings of fact and holdings of law are issued by the secretary of the MMB. Appeals from orders of the MMB must be taken to the Commonwealth Court. 10

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SECURITIES COMMISSION

The Securities Commission (Commission) consists of three commissioners who are appointed by the Governor. The purpose of the Commission is to regulate the sale and registration of securities pursuant to the Pennsylvania Securities Act and the Takeover Disclosure Law. The practice and procedure before the Commission is governed by the General Rules of Administrative Practice and Procedure.

A hearing officer, who is appointed by the Commission, presides over hearings. The hearing officer issues a recommended decision that includes proposed findings of fact, conclusions of law, and a final order to the Commission. The Commission has the ability to adopt, modify, or return the recommended decision. The unsatisfied party may petition for a rehearing within thirty days after a Commission order has become effective, or the party may file an appeal to the Commonwealth Court.11

WORKMEN'S COMPENSATION APPEAL BOARD

The Workmen's Compensation Appeal Board (Board) is comprised of at least three members who are appointed by the Governor. The Board hears claims brought under the Workmen's Compensation Act and the Pennsylvania Occupational Disease Act. Referees, appointed by the Secretary of Labor and Industry, make the initial compensation determinations which may then be appealed to the Board. Appeals to the Board must be taken within twenty days after notice of a referee's award or after the disallowance of compensation has been served upon a party. The practice and procedure before the Board is governed by the General Rules of Administrative Practice and Procedure.

A party may petition for a rehearing to the Board within eighteen months or may file an appeal to the Commonwealth Court within thirty days after the entry of an order. A petition for review before the Commonwealth Court will not be entertained unless the party has first petitioned for a rehearing to the Board.\footnote{See PA. CONS. STAT. ANN. § 702 (1988); PA. STAT. ANN. tit. 71, §§ 67.1, 151 (1990); PA. STAT. ANN. tit. 77 §§ 1-1065, 871, 1201-1603 (1992); King v. Workmen's Comp. Appeal Bd. (Mackintosh Hemphill), 534 A.2d 1144 (Pa. Commw. Ct. 1987. Several bills have been introduced by both the Pennsylvania House and Senate that propose significant changes to the current Workmen's Compensation Act. All of these bills include a provision that substitutes the phrase "Workers' Compensation" for "Workmen's Compensation." See S.B. 1, 176th G.A., Reg. Sess., 1993-1994 Pa. Sess. Laws; S.B. 72, 176th G.A., Reg. Sess., 1993-1994 Pa. Sess. Laws.}