



REPORT ON KEY ISSUES FROM THE HOUSE APPROPRIATIONS COMMITTEE

BUDGET BRIEFING

DWIGHT EVANS, DEMOCRATIC CHAIRMAN

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2009/10 Budget: Fiscal Code

Given concerns regarding language that is constitutionally permissible for inclusion in the budget bill, the General Assembly amended the Fiscal Code for the fourth year in a row to include language that **directly links to the General Appropriations Act**. This is in response to a December 2005 Pennsylvania Supreme Court decision that invalidated Medical Assistance provisions in the 2002 General Appropriations Act because it constituted “improper substantive language.” This year Act 50 (HB 1614) amends the Fiscal Code to address this and other issues. These “other issues” may include budget related issues and also can include a collection of provisions that are not necessarily related to each other or to the budget. They are miscellaneous provisions that the General Assembly considers important to include as part of the final push to close out budget negotiations.

Article XVII-J provides language for appropriations in the 2009/10 General Fund Budget Act. These provisions deal with the more “temporary” issues that relate specifically to the 2009/10 budget:

- **§1733-J: State Police** - provides that if funds are not available to make full payments, the Municipal Police Officers’ Education and Training Commission shall make payments to municipalities on a pro rata basis.
- **§1719-J: Machinery and Equipment Loan Fund** - transfers \$12 million from the Small Business First Fund to the Machinery and Equipment Loan Fund.
- **§1746-J: Health Care Cost Containment Council** - allows the Health Care Cost Containment Council to use 25 percent of the proceeds from the sale of data for their budget

and transfers \$2.3 million in unspent, uncommitted funds from the council to the General Fund.

Article XVII-K provides for restrictions on appropriations for funds and accounts in 2009/10.

- **§1718.1-K: Gaming Economic Development and Tourism Fund** - appropriates \$5.08 million from the Pennsylvania Gaming Economic Development and Tourism Fund to the Department of General Services due to a credit rating downgrade of the bond issuer in an agreement between the Sports and Exhibition Authority of Pittsburgh and Allegheny County and the insurer. The Commonwealth is the backstop and is required to cover this loss in 2009/10 or be in default.
- **§1720-K: State Gaming Fund** - implements the loan for operating expenses of the State Gaming Control Board from the Property Tax Relief Reserve Fund and provides for repayment of the loan when 11 gaming venues are operational. Specifically, the act diverts \$25.53 million from the Property Tax Relief Reserve Fund and loans it to the Pennsylvania Gaming Control Board for 2009/10 administrative and operational expenses. This loan has no impact on the timing or amount of statewide property tax relief as provided by the Taxpayer Relief Act (Special Session Act 1 of 2006). The Board is required to repay the loan using assessments on licensed gaming entities once 11 slot machine licenses are issued and the 11 gaming entities are operating. Each slot machine licensee will pay an amount proportional to its gross terminal revenue. Beginning January 1, 2011, if the Budget Secretary determines that Reserve

Funds are needed for property tax relief, the Secretary can require the Board to immediately assess gaming entities to repay the loan. Section 1720-I also prohibits the Pennsylvania State Police, Department of Revenue and Attorney General from independently assessing licensed gaming entities for operational costs relating to gaming.

- **§1715-K: Tobacco Settlement Fund** - reallocates the annual payments that the Commonwealth receives from tobacco manufacturers and redirects investment earnings and other tobacco payments for purposes other than those set forth in Act 77 of 2001 (the Tobacco Settlement Act). For 2009/10, these changes effectively redirect \$151.6 million of Tobacco Settlement Funds to Medical Assistance Long Term Care (\$130.9 million) and Life Sciences Greenhouses (\$3 million) with the remaining monies going to the General Fund (\$17.7 million). In addition, this section provides for transfers from the Health Endowment Account to the General Fund, including a \$150 million transfer in 2009/10 and a \$250 million transfer in 2010/11. A recent budget briefing (*2009/10 Budget: Tobacco Settlement Fund, October 13, 2009*) provides a comprehensive look at the Tobacco Settlement Fund and the overall budget.
- **§1718-K: Rainy Day Fund** - transfers \$755 million from the Rainy Day Fund to the General Fund and keeps any surplus in 2009/10 that would otherwise have been deposited in the Rainy Day Fund into the General Fund.
- **§1717-K: Health Care Provider Retention Account** - transfers all funds in the Health Care Provider Retention Account (approximately \$708 million) to the General Fund.
- **§1717.1-K: MCARE** - transfers \$100 million from the Medical Care Availability and Reduction of Error Fund to the General Fund. It also redirects surcharges on moving vehicle violations of the Vehicle Code from the MCARE fund to the General Fund for 2009/10 and 2010/11.

Other sections of the Fiscal Code were amended as follows:

- **§10: Electronic Filing** - allows the Department of Revenue to require electronic filing from those who prepare 50 or more returns per year.
- **§202-A: Cigarettes** - adds “little cigars” to the definition of “cigarettes” for stamping purposes. This is clarifying language for the Tax Code.
- **§501-A: Independent Fiscal Office** - adds a new Article V-A which establishes an Independent Fiscal Office that will be responsible for forecasting revenues, analyzing the budget, assessing the commonwealth’s fiscal condition, and developing performance measures for programs. However, the language in Article V-A is temporary and will sunset upon the enactment of the 2010/11 budget, by which time it is anticipated that the General Assembly will have developed and enacted replacement language that reflects the joint interests of the Senate and House of Representatives.
- **§1301.12: Unclaimed Property** - relieves the Treasurer of publishing unclaimed property valued at less than \$250.
- **§1601-B: Neighborhood Improvement Zone** - authorizes the designation of a Neighborhood Improvement Zone in a city of the third class for the establishment of a stadium or arena for athletic events. The facility would be financed through tax increment financing.
- **§1781-A: Water and Sewer Systems** - amends the Water and Sewer Systems Assistance Act (Act 64 of 2008) to include standard language to allow the Governor’s Budget Office to issue the bonds approved by the voters in November 2008, and clarifies that the three year period to issue the bonds begins upon passage of this provision.
- **§1771-A: H2O PA** - amends the H2O PA Act (Act 63 of 2008) requiring the Secretary of the Budget to certify the amount of funds available for transfer from the Pennsylvania Gaming Economic Development and Tourism Fund (PA GEDTF) to the Commonwealth Financing Authority for payment of debt service on the bonds. The bill also authorizes the Secretary of the Budget to request an appropriation from the General Fund if inadequate funds are available from the PA GEDTF in order to make the bonds saleable at market. It further provides for a reallocation of \$15 million from flood control

projects to high hazard unsafe dam projects. The minimum grant amount for flood control projects is reduced from \$100 million to \$85 million, and the minimum grant amount for high hazard unsafe dam projects is increased from \$35 million to \$50 million.

- **§1601-E: Marcellus Shale Leasing** - provides that in 2009/10, \$60 million shall be transferred from the Oil and Gas Lease Fund to the General Fund. On an annual basis, \$50 million of royalties deposited into the Fund will be transferred to the Department of Conservation and Natural Resources (DCNR) to be used in the same fashion as the Department currently uses money in the Fund, except that the Department will be required to give preference to the operation and maintenance of state parks and forests. The use of all other royalties deposited into the Fund will be subject to appropriation by the General Assembly. Also, there is:
 - No \$180 million transfer in 2010/11
 - No repeal of the Oil & Gas Lease Fund
 - No set number of acres required to be leased
 - No minimum price per acre
 - No 15 percent local share of royalties
- **§1723-E: Solar Energy Fees** - allows the Department of Environmental Protection to assess an application fee on applicants for solar energy projects authorized in the Alternative Energy Investment Act (Special Session Act 1 of 2008) to be used to help administer the program.

§1722-E, §1722-J, §1737-J, §1737.1-J, §1738-J: Education

Unlike most years, the General Assembly did not pass a comprehensive Education Code bill as part of the package of budget related bills. Instead, the Fiscal Code bill implements the education funding provided in the General Appropriations Act as follows:

- Provides for payments to chartered schools that establish a satellite campus for former students of **Scranton School for the Deaf**. Additional funding is provided for chartered schools

operating a satellite campus (Western PA School for the Deaf).

- Includes transition language for a pool of professional and temporary employees of Scranton School for the Deaf and **Scotland School for Veterans Children**. Provides for retention of seniority rights, sick leave, and years of service. Also requires specifically designated school districts to interview and offer priority employment to the pool of professionals.
- Repeals the Pennsylvania Oral School for the Deaf and other related language necessary to complete the closure of the Scranton School for the Deaf.
- Stipulates that **ARRA funds** received shall be spent in accordance with federal guidelines.
- Authorizes school districts to reopen their 2009/10 budget to reflect additional changes to state allocations from the enacted General Appropriations bill.
- Provides for the distribution of payments in the General Appropriations act for:
 - Community Colleges
 - Special Education
 - Education Assistance Program
 - Accountability Block Grant
 - Public Library Subsidy
 - Homebound Instruction
 - Basic Education Subsidy
 - Payments to districts identified as an education empowerment district
- Establishes a new reporting requirement for the Pennsylvania Department of Education (PDE) on adjudicated youth who receive educational services at nonpublic residential facilities.
- Requires school districts to have or maintain a certified safety committee by December 31, 2010.
- Requires PDE to treat wages paid using ARRA stabilization and ARRA IDEA-Part B as covered wages for the purposes of social security payment calculations.
- Details the **articulation agreement** requirements for college credit transfer between community colleges and the State System of Higher Education. The agreement ensures a student with an associate's degree of at least 60 credits from a community college can transfer with full junior standing into a baccalaureate

program at a state system university by December 31, 2011. State related universities will also participate, by identifying at least 30 credits that may transfer to the institution from a community college or a state system university.

- Requires that public television station grants be distributed in the same manner as formula grants were made in 2008/09.



QUESTIONS AND COMMENTS
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