

BILL ANALYSIS -- FISCAL CODE

HB 278 PN 3930

July 2, 2014

Prepared by the staff of the House Appropriations Committee

Brief Summary

HB 278 amends the Fiscal Code with substantive language implementing the General Appropriation Act of 2014, and it makes other amendments to the Fiscal Code.

HB 278 WAS AMENDED BY THE HOUSE RULES COMMITTEE ON 7/1/2014.

The Rules Committee removed new section 215 that established a surcharge on the bank shares tax for calendar years 2014 and 2015.

The Rules Committee added the word “impacts” to section 1601.1-E in the language describing legislative findings regarding the leasing of state land for the extraction of natural gas. This was a technical amendment, because the word had inadvertently been left out.

The Rules Committee removed language that amended section 1719E to authorize new “City Revitalization and Improvement Zones (CRIZ).”

The Rules Committee removed subsection 1722-J(25), which authorized a school district to receive an enhancement to its basic education subsidy in the amount of \$1.45 million.

The Rules Committee amended subsection 1723-J(5) by rewriting it. The subsection provides exemptions for municipalities that signed a consent order with the state Department of Health in 2004 regarding overload in the management of municipal waste.

The Rules Committee added language to subsection 1729-J(2)(xiii) to clarify the Department of Public Welfare’s formula for reimbursing critical access hospitals. This language was designed to clarify that HB 278’s original purpose remains despite any other amendments to the bill.

The Rules Committee removed subsection 1743-J(2), which required the Pennsylvania Gaming Control Board to transfer \$8 million to the General Fund. This language duplicated language in the General Appropriation Act of 2014.

Analysis of the Bill

THE FOLLOWING PARAGRAPHS CHANGE, ADD, OR REPEAL PERMANENT SECTIONS OF THE FISCAL CODE:

Investment of Moneys:

In section 301.1, the Treasurer's authority to invest or reinvest the moneys in the funds under his control was set to expire this December. The authorization has been extended to December 31, 2019.

Disposition of Abandoned and Unclaimed Property:

In section 1301.1, several definitions are updated or added.

Sections 1301.3, 1301.4, 1301.5, 1301.6, 1301.8, 1301.9, and 1301.10 are amended to shorten the time that certain types of property must be held before the property can be considered abandoned or unclaimed, from five years to three years. These sections include property held by financial institutions, insurers, utilities, business associations, fiduciaries, and courts or public officers or agencies. The types of property include accounts payable or receivable, checking or savings accounts, refunds or rebates, life insurance, royalties, or securities.

Sections 1301.11a, 1301.11b and 1301.11c are amended or added to provide that the Department of Treasury may regulate those who act as "finders" of unclaimed property for payment. Provisions include enhanced reporting and application requirements. This section also disqualifies a person from holding a registration if he or she has committed or is currently being investigated for a felony or theft, forgery or perjury. Additionally, the sections provide for the process of appeals, in Commonwealth Court, when challenging a determination by the Treasurer.

Sections 1301.23, 1301.24, and 1301.25 are amended to provide the Treasurer with enhanced authority to examine the records of a holder who has failed to report property. The Treasurer may also request verified reports and assess fees. These provisions assist the office in seeking out unclaimed property that should have been turned over to the commonwealth. Penalties are set for noncompliance.

Oil and Gas Lease Fund:

New section 1601.1-E provides that transfers to the General Fund from the Oil and Gas Lease Fund are permissible as long as the Department of Conservation and Natural Resources continues to monitor the impact of drilling, employ best management practices, execute strong lease protections, and protect state forest and park land.

Sections 1602-E and 1603-E are amended to make Oil and Gas Lease Fund transfers to the General Fund higher priorities than the annual, up to \$50 million Oil and Gas Lease Fund appropriation to the Department of Conservation and Natural Resources.

Section 1605-E is amended to transfer \$95 million from the Oil and Gas Lease Fund to the General Fund for fiscal year 2014/15.

Budget Stabilization Reserve Fund:

Section 1702-A of the Fiscal Code is amended to provide that there will be no transfer to the "Rainy Day" fund for fiscal year 2013/14.

H2O PA Account:

This section establishes the H2O PA Account within the Gaming Economic Development and Tourism Fund.

Tobacco Settlement Fund:

Section 1713-A.1 is amended to change the allocation percentages used in fiscal years 2013/14 and 2014/15 for appropriating the annual tobacco payments deposited in the Tobacco Settlement Fund. For 2013/14, the allocation for health-related purposes is increased, the allocation for PACENET is eliminated, and allocations for the following programs are generally reduced by half: tobacco use prevention and cessation, CURE (health research), and hospital uncompensated care payments. The percentages for 2014/15 reflect the governor's proposal to reduce the allocation for Medical Assistance for Workers with Disabilities (MAWD) by nearly half, suspend the allocation for PACENET, and increase the allocation for health-related purposes so that additional funds can be redirected to DPW for nursing facilities.

Section 1714-A.1 terminates the Health Endowment Account for Long-Term Hope and the Health Venture Investment Account. It also prohibits the Tobacco Settlement Investment Board from entering into partnerships or investments after July 1, 2014.

The bill also repeals sections 304 and 305 of the Tobacco Settlement Act (Act 77 of 2001). Section 304 established the Tobacco Settlement Investment Board, and Section 305 governed the board's investment of monies in the Tobacco Settlement Fund, the Health Endowment Account for Long-Term Hope, and the Health Venture Investment Account.

Transfer to Public School Employees' Retirement System:

Section 1715-A.1 requires the Tobacco Settlement Investment Board (TSIB) to make a one-time \$225 million transfer to the PSERS Fund from private equity investments and cash reserves in the Tobacco Settlement Fund and the Health Venture Investment

Account as a partial payment of the Commonwealth's fiscal year 2014/15 required employer contribution.

The transfer must be made prior to December 31, 2014.

The value of the non-liquid investments will be determined by the latest valuation report received by the TSIB prior to the transfer date.

The section also requires the PSERS Board to accept the transfer of funds and apply the amount as a credit towards the state's annual required employer contribution.

The language provides fiduciary immunity to PSERS Board members, actuaries, and employees for any action taken or calculation made related to this transfer.

The section requires a report be furnished by the Budget Secretary to the majority and minority chairmen of the Appropriations Committees in both chambers no later than 15 days after the transfer of funds is completed. The report must include the transfer dates and detailed statements of the assets, non-liquid investments, contractually obligated money, return on investments, and any other money, cash or assets transferred.

Pennsylvania Race Horse Development Fund:

Section 1723-A.1 provides that distributions of revenue from the Pennsylvania Race Horse Development Fund are the same for fiscal year 2014/15 as they were for fiscal year 2013/14 with regard to the horsemen's organizations.

Additionally, Section 1723-A.1 provides that transfers from the Fund to the Pennsylvania Race Horse Development Restricted Receipts Account are the same for fiscal year 2014/15 as they were for fiscal year 2013/14. This transfer is not to exceed \$17,659,000 annually. These funds are expected to be used for the Transfer to Farm Show Products, Pennsylvania Fairs, the Animal Health Commission, and the Pennsylvania Veterinary Laboratory appropriations under the Department of Agriculture.

Environmental Quality Board:

Section 1741.1-E requires the Environmental Quality Board to differentiate between conventional oil and gas wells and unconventional gas wells when promulgating new regulations. Regulations for each type of well shall be promulgated separately.

The section also provides a new definition of the term "conventional oil and gas well" that captures some wells that previously would have been considered unconventional under Act 13 of 2012.

State Civil Service Commission:

Section 1734-E adds two paragraphs with language similar to HB 2129 (Simmons). The language would allow the Commission to contract for production of the physical copies of its tests. It would also allow the Commission to enter into cooperative agreements with other commonwealth entities for performance of its administrative functions, including budget preparation, fiscal management, human resources, information technology, and procurement.

Surcharges:

New section 1795.1-E imposes a surcharge of \$10 in addition to any current surcharges levied under section 3733.1(a)(2) of the Judicial Code. The section indicates that the surcharge is being levied in order to adequately fund the Unified Judicial System. The surcharge expires on December 31, 2017.

Pennsylvania Liquor Control Board:

New section 1799.1-E allows the Liquor Control Board (LCB) to reduce the fee for a tavern games license to \$500 upon approval of the license. Under section 905(c) of the Local Option Small Games of Chance Act, the fee is \$2,000. The LCB is being given this authority in order to encourage applications for tavern games licenses.

Rural Regional College for Underserved Counties:

New article XVII-E.1 contains language similar to SB 1000 (Scarnati). It establishes a new rural regional college to provide two-year post-secondary education and workforce development. Importantly, the rural regional college would not require local sponsor support, as the other community colleges must have.

THE FOLLOWING PARAGRAPHS RELATE TO IMPLEMENTATION OF THE GENERAL APPROPRIATION ACT OF 2014:**Executive Offices:**

Money appropriated to the Pennsylvania Commission on Crime and Delinquency (PCCD) for intermediate punishment treatment programs shall be distributed competitively to counties. This language is the same as for the 2013/14 fiscal year.

Treasury Department:

HB 278 provides a new provision related to the implementation of the Department's appropriations, distributing \$45,000 to a commission of the Atlantic coastal states that coordinates the conservation and management of near-shore fish species, for payment of dues for fiscal years 2013/14 and 2014/15.

Department of Agriculture:

HB 278 contains a number of provisions related to the implementation of the Department's fiscal year 2014/15 appropriations that are the same as for fiscal year 2013/14.

New language provides that \$250,000 from the Department's general government operations appropriation shall be transferred to the Dog Law Restricted Account.

Department of Community and Economic Development:

HB 278 provides that funds for the Main Street and the Elm Street programs will be allocated as they were in fiscal year 2012/13. However, the total amount of funds available for the two programs will be the amount remaining in the Keystone Communities appropriation after two earmarks totaling \$750 thousand.

Department of Conservation and Natural Resources:

New language provides that \$500,000 shall be used to operate and maintain Washington Crossing Historical Park. These funds shall be taken from the appropriation for "Heritage and other parks."

Department of Education:

HB 278 contains a number of provisions related to the implementation of the Department's fiscal year 2014/15 appropriations, many of which are the same as for fiscal year 2013/14.

HB 278 prohibits any payments from the appropriation for school employees' social security to be made to charter or cyber charter schools. This prohibition is continued from previous years.

HB 278 adds PlanCon language that requires school districts that have received final funding approval to submit all additional required paperwork within 90 days. If a school district fails to comply, the approved project is moved back in the reimbursement order until all paperwork is submitted. Waivers are available for extenuating circumstances.

HB 278 stops the state reimbursement to charter and cyber charter schools for public school employees' retirement. This effectively stops the current "double dip" with all savings going to the Commonwealth. The fiscal note estimates \$76 million in savings for the Commonwealth in 2014/15 by enacting this change. No savings are realized by school districts.

HB 278 contains the new funding formula for the increase in the special education appropriation (\$20 million). The base amount (\$1.03 billion) of special education funding

is appropriated in the same manner as 2013/14. Charter schools are excluded from the new formula and school districts will continue to pay tuition for charter students as provided in current school code law. Intermediate unit funding remains the same as 2013/14 and is distributed in the same manner. One percent of the total special education funding for 2014/15 is set aside in a contingency fund for entities with extraordinary special education costs.

HB 278 provides for school districts to receive the same funding in the basic education subsidy as was provided in fiscal year 2013/14. Any funding not appropriated through the formula is transferred to the Financial Recovery School District Transitional Loan Account. For fiscal year 2014/15, the amount transferred to the loan fund is \$2.75 million.

HB 278 institutes an application fee for all school districts, charter schools, and private institutions to be submitted for initial or renewal applications to establish an alternative education program. For school districts and charter schools, the fee is \$400; for private institutions, the fee is \$1,000. The fiscal note indicates that this will generate an additional \$162,000 in revenues to the Department of Education.

HB 278 contains the funding formula for the \$200 million Ready to Learn Block Grant. For \$100 million of the grant, school districts will receive the same amount received in fiscal year 2013/14 under the Accountability Block Grant program. For the remaining \$100 million, the formula proposed by the governor is utilized, which calculates a payment based upon a base amount, aid ratio, and other factors. Additionally, the governor's proposed program restraints are expanded to allow entities to use the funding for a variety of purposes, including activities allowed under the Accountability Block Grant program. Both school districts and charter schools are eligible to receive funding from the new \$100 million formula.

HB 278 provides a funding formula for the vocational education equipment grants. The formula is a variation of the formula introduced in fiscal year 2013/14, as it lowers the base amount of funding and more heavily weighs the formula based upon student count.

HB 278 provides public libraries with the same funding with the same distribution as they received in 2013/14.

HB 278 distributes funding for community colleges, with each community college receiving an amount equal to its fiscal year 2013/14 payment, plus an additional pro rata share of \$3.5 million.

The new rural regional college established in Article XVII-E.1 will receive \$1.2 million from the appropriation for regional community college services.

Community education councils will receive the same amount as in fiscal year 2013/14, plus a pro rata share of \$50,000.

Department of Environmental Protection:

HB 278 prohibits any appropriation from the General Fund to the Department for the Consumer Energy Program.

The bill requires the Department to transfer \$8,672,845 to the Commonwealth Financing Authority to pay interest due in fiscal year 2014/15 on the Authority's Alternative Energy Tax Exempt Bonds. The money constitutes unexpended Alternative Energy Series 2010B proceeds allocated to the Department under the Alternative Energy Investment Act.

Department of General Services:

New language provides that from funds appropriated to the Department, a transfer is made to each house of the General Assembly. Distribution is determined by the majority leadership in each respective house.

Department of Health:

HB 278 contains a number of provisions related to the implementation of the Department's fiscal year 2014/15 appropriations, many of which are the same as for fiscal year 2013/14.

Department of Labor and Industry:

This section contains a number of provisions related to the implementation of the Department's fiscal year 2014/15 appropriations that are the same as for fiscal year 2013/14. HB 278 also establishes new requirements for grantees and subgrantees of the New Choices/New Options program.

Department of Military and Veterans' Affairs:

HB 278 increases the amount of money for programs providing treatment for post-traumatic stress disorder by half a million dollars, to \$750,000.

Department of Public Welfare:

This section contains a number of provisions related to the implementation of the Department's fiscal year 2014/15 appropriations, many of which are the same as for fiscal year 2013/14.

HB 278 stipulates that the Long Term Care appropriation includes \$8 million in state funding for a quarterly medical assistance day one incentive payment to qualified non-public nursing facilities under methodology and criteria set forth in section 443.1(7)(v) of the Public Welfare Code. This language funds the "Access Payment" that was created in fiscal year 2013/14 to provide additional support for non-public nursing facilities that

have an overall occupancy rate of at least 85 percent and a medical assistance occupancy rate of at least 65 percent.

HB 278 also stipulates that a hospital in a county of the fourth class, with a population between 168,000 and 170,500, shall be designated by the commonwealth as a rural hospital under section 1886(d)(8)(E)(ii)(II) of the Social Security Act for purposes of Medicare reimbursement.

New language provides that at least \$310,000 of the Mental Health Services appropriation shall be used to continue the Network for Care.

Department of Revenue:

HB 278 extends the existence of the Enhanced Revenue Collection Account through Fiscal Year 2019/20 and authorizes the Department's continued efforts to enhance revenue collection. Of the money deposited in the account each fiscal year, up to \$25 million shall be appropriated to the Department for its enhanced-revenue-collection costs. The remaining money in the Account shall be transferred to the General Fund each June 15.

Department of Transportation:

HB 278 authorizes the Secretary of Transportation to waive, for good cause, the local match requirements for eligible programs funded by moneys from the Multimodal Transportation Fund. The Secretary's authority expires in six months.

Pennsylvania State Police:

HB 278 provides that reimbursement to municipalities for training of their police officers is limited to the money available. If there is not enough money available to fully reimburse municipalities, the Municipal Police Officers' Education and Training Commission shall reimburse on a pro-rata basis. This language is unchanged from fiscal year 2013/14.

Pennsylvania Higher Education Assistance Agency:

HB 278 requires PHEAA and the Department of Education to develop guidelines for the new Ready to Succeed scholarship program. The eligibility guidelines must provide that the applicant's household income not exceed \$110,000; that the applicant be enrolled at least half time; and that the applicant demonstrate outstanding academic achievement.

Pennsylvania Historical and Museum Commission:

HB 278 requires the Department of Conservation and Natural Resources to begin to operate the Washington Crossing Historic Park within 60 days. The language requires the Historical and Museum Commission to operate the visitor's center through the end of 2014, but thereafter, it is the Department's responsibility to manage the visitor's

center and adjoining buildings. The Commission shall consult with the Department regarding historic interpretation and preservation of the park.

Pennsylvania Gaming Control Board:

HB 278 requires any slot machine license fee paid under 4 Pa. C.S. §1209 (relating to slot machine license fee) received by the Gaming Control Board after June 30, 2014, to be deposited in and credited to the General Fund.

Gaming Economic Development and Tourism Fund:

HB 278 appropriates \$5.676 million from the Gaming Economic Development and Tourism Fund to the Department of General Services to meet additional payment obligations related to a hockey stadium in Pittsburgh.

Effective Date:

Generally, HB 278 takes effect immediately.