

2017/18 BUDGET BRIEFING

Report on Key Issues

HOUSE APPROPRIATIONS COMMITTEE (D)

JOE MARKOSEK, DEMOCRATIC CHAIRMAN



2017/18 Administrative Code Summary

(SB 446 PN 1088)

7/14/2017 1:09 PM

Table of Contents

Access to Federal Tax Information	2
Pennsylvania Commission on Crime and Delinquency.....	2
Pennsylvania State Police	2
Department of Corrections	3
Higher Education Fee Increases	3
Department of Health Fee Increase	3
Department of Labor and Industry Fees	3
Collections by the Attorney General	3
Payment to General Fund from Joint Underwriting Association (JUA):.....	3
Directive for the Environmental Quality Board.....	4
Recycling Fee Extension and Restricted Transfer.....	4
Permit Extension for Water Treatment Facilities.....	4
Directing DCNR to conduct a Feasibility Study.....	4
Older Adult Daily Living Centers.....	5
Child Protective Services Fees	5
Alternative Energy Portfolio Standards.....	5
Drug and Alcohol Recovery House Licensure Procedures.....	5
Article XXVIII-E Judicial Administration	5
Senior Judge Operational Support Grants.....	5
E Surcharges and Fees	5

[Access to Federal Tax Information](#)

Section 225 requires employees with access to federal tax information to submit state and federal criminal history background checks to the employer, as well as validation of eligibility to legally work in the United States. Applicable employees and prospective employees shall provide fingerprints to the Pennsylvania State Police for state criminal background checks and those shall be forwarded to the Federal Bureau of Investigation for a national criminal background check. Employees must reapply again within ten years.

This language is required in order to comply with IRS publication 1075, which is the Tax Information Security Guidelines for Federal, State and Local Agencies. This publication was updated on September 30, 2016 and provides policies, practices and controls for recipient agencies to adequately protect the confidentiality of federal tax information.

This requirement mainly applies to the Pennsylvania Department of Revenue, but also applies to any commonwealth agency, office, department, authority, board, independent agency, political subdivision or contractor that receives federal tax information from the IRS or Social Security Administration (even if it was forwarded by another commonwealth agency). This only applies to employees or prospective employees that have access to federal tax information.

The Department of Revenue estimates a fiscal impact of \$81,500 for 1,630 of its affected employees at a cost of \$50 per service of background checks. Other agencies might incur a cost as well; however that cost is unknown.

[Pennsylvania Commission on Crime and Delinquency](#)

Section 310 of SB446 PN1088 modifies the composition of the Pennsylvania Commission on Crime and Delinquency to allow the substitution of a designee for certain positions.

Act 274 of 1978 defines the composition of the commission, which consists of 28 members defined in statute and any additional members appointed by the governor as needed.

Seven of those 28 members are the attorney general, the majority chairs of the appropriations committees, and four members of the general assembly, one each designated by the Senate President pro tempore, the speaker of the House, and the minority leaders of the Senate and House.

SB446 PN1088 would allow each of these seven positions on the commission to be substituted for the designee of the individual defined in statute, where the designee of members of the General Assembly must be legislative staff.

[Pennsylvania State Police](#)

Section 616-A of SB446 provides authority for Pennsylvania State Police to increase fees for criminal history record information under 18 Pa.C.S. Ch. 91.

Currently, the criminal history record check fees are \$8 for a standard criminal history record check request, which can be notarized; and \$10 for an “access and review” criminal history record check request, “access and review” includes a check of convictions and non-convictions, the latter form of check is used for expungement and other legal proceedings.

The 2017/18 budget includes an assumption of \$28 million additional fee revenue to augment the state police appropriations by increasing these fees to \$22 and \$20 respectively. Section 616-A of the bill would enable PSP to implement that change.

Department of Corrections

Section 915-B of SB446 requires a public hearing with 30 days' notice made publically available prior to said hearing before the closure of any state correctional institution. The language is specific to closures during 2017/18.

Notably, the State Correctional Institution at Pittsburgh was closed during 2016/17 with all inmates transferred to other facilities prior to July 1. Therefore, this legislation would apply only to future prison closures if any occur in 2017/18.

SCI Phoenix, in Montgomery County, is under construction for the purpose of replacing SCI Graterford. If the new facility is ready for inmates to be transferred from SCI Graterford to SCI Phoenix during 2017/18, this section could apply and therefore require a public hearing prior to the decommissioning of SCI Graterford.

Higher Education Fee Increases

The bill establishes a Higher Education Regulatory Restricted Account. The Department of Education may use the monies from the account to fund its activities related to institutions of higher education. Revenues in the account consist of fees charged to institutions for approval of degrees, programs, institutions, status changes and other activities. The State Board of Education may adjust the fees by regulation to meet projected expenditures.

Department of Health Fee Increase

The bill increases the fee for a copy of a certified death certificate issued by the Division of Vital Records within the Department of Health from \$9 to \$20.

Department of Labor and Industry Fees

The bill increases fees for numerous inspections, activities and permits provided by the Bureau of Occupational and Industrial Safety, as proposed by the executive budget and anticipated by House Bill 218. In addition, new expedited inspection fees and permits are created to allow entities to receive faster service. For inspections, expedited service will be performed within three days of receipt; other expedited tasks will occur within seven days.

The increased revenues received above the 2016/17 baseline will be set aside to augment the Bureau's appropriation.

Collections by the Attorney General

Establishes a restricted revenue account within the General Fund known as the Collection Administration Account. Pursuant to the Commonwealth Attorneys Act, the Office of Attorney General has the power to collect debts, taxes, and accounts due to the commonwealth upon referral by another commonwealth agency. This section directs that up to 25 percent of each amount collected by the Attorney General will be deposited in the Collection Administration Account, up to a total of \$2.5 million per fiscal year. The funds in the Collection Administration Account will be appropriated to the Office of Attorney General each fiscal year.

Payment to General Fund from Joint Underwriting Association (JUA):

Article XV-A provides for a \$200 million payment to be made from the Pennsylvania Professional Liability Joint Underwriting Association (JUA) to the state's General Fund on or before September 1, 2017. The JUA,

established under Act 111 of 1975, is a nonprofit entity that acts as an insurer of last resort for individuals and providers unable to obtain medical professional liability insurance through standard channels.

The subsequent sections stipulate that the current surplus held by the JUA is in excess of the amount reasonably needed to execute its statutory mandate, due to a significant reduction in medical malpractice policies and claims carried under the JUA. Additionally, the bill clarifies that these funds do not belong to any JUA members or policyholders, but rather the Commonwealth. Finally, the bill establishes exclusive jurisdiction to the Supreme Court to hear any subsequent challenge and render a declaratory judgement regarding constitutionality.

The prior year enacted budget assumed a loan for the transfer of \$200 million from the JUA surplus; however, this did not occur and has since resulted in litigation. As of December 31, 2016 the JUA held an unappropriated surplus of \$265.1 million. The language included in SB 466 provides for a payment rather than a loan.

[Directive for the Environmental Quality Board](#)

SB 446, as amended, directs the Environmental Quality Board to develop regulations pursuant to Act 394 of 1937 (The Clean Streams Law). Specifically, the Board is to promulgate effluent limitations for point source discharges of manganese to an upstream waterway within 5 miles of a potable or private water supply. The Board has up to 90 days from the effective date of the subsection to offer these regulations.

[Recycling Fee Extension and Restricted Transfer](#)

SB 446, as amended, would extend the sunset date for the recycling fee for municipal waste landfills and resource recovery facilities. The fee will continue to be imposed through January 1, 2023. This fee was scheduled to sunset on January 1, 2020.

SB 646, which was reported out of the House Appropriations Committee on July 10, would have extended this fee for one year, to January 1, 2021.

The administrative code bill also cancels the transfer of unexpended funds from the Recycling Fund to the Solid Waste Abatement Fund, which was authorized under Act 101 of 1988. The Solid Waste Abatement Fund shall be administered by the department for abatement or elimination of present or potential hazards to human health or to the environment from the improper treatment, transportation, storage, processing, or disposal of solid wastes.

[Permit Extension for Water Treatment Facilities](#)

SB 446, as amended, extends the validity and applicability of permits issued to water treatment facilities at conventional oil and gas wells through December 31, 2019. This applies to wells operating under National Pollutant Discharge and Elimination System (NPDES) and Department of Environmental Protection (DEP) permits.

[Directing DCNR to conduct a Feasibility Study](#)

SB 446, as amended, directs the Department of Conservation and Natural Resources to conduct a feasibility study for the establishment of a state park in Wyoming County. Results of the study, as well as the appraisal of the fair market value of the real property proposed for the state park, will be reported to the General Assembly within one year.

Older Adult Daily Living Centers

Section 2215-A stipulates that facilities providing all-inclusive care for the elderly are excluded from the provisions of the Older Adult Daily Living Centers Licensing Act (Act 118 of 1990), thus eliminating duplicative licensing requirements for these providers.

Child Protective Services Fees

Section 2336 authorizes the Department of Human Services to increase the fee for an individual child abuse clearance check from \$8 to no more than \$13.

Alternative Energy Portfolio Standards

Amends the Alternative Energy Portfolio Standards Act (Act 213 of 2004) to require that all resources eligible to provide solar photovoltaic credits must be based in and connected to the electric distribution or transmission system in Pennsylvania. Solar resources with existing contracts to provide photovoltaic credits entered into prior to the passage of this act will be grandfathered in for the duration of the existing contract.

Drug and Alcohol Recovery House Licensure Procedures

The bill includes an additional section that requires the Department of Drug and Alcohol Programs (DDAP) to promulgate regulations for drug and alcohol recovery houses to ensure the safety of residents in line with the standards set forth by the National Alliance for Recovery Residences.

The department shall apply these guidelines through a licensing or certification process for drug and alcohol recovery houses on a biennial basis, with modified compliance provisions for drug and alcohol recovery houses currently in existence. DDAP is also tasked with maintaining a public, online registry of all licensed or certified drug and alcohol recovery houses.

The bill authorizes the department to establish a fee to be paid by each drug and alcohol recovery house in order to offset costs incurred by DDAP through the implementation of this program, as well as financial penalties for violations. Fees and fines collected under this program are to be deposited into a newly established Drug and Alcohol Recovery House Fund.

Subsequent to enactment, all referrals from state agencies or state-funded facilities shall be licensed or certified drug and alcohol recovery houses, and only these entities will be eligible to receive state or federal funding to provide these services.

Article XXVIII-E Judicial Administration

Senior Judge Operational Support Grants

Reauthorizes the program that provides grants to counties to partially offset the costs of senior judges assigned to county courts of common pleas, which expired on June 30, 2017. This program makes state funds available to counties to cover the operational support provided to senior judges, including the use of chambers and the utilization of services of law clerks and secretaries, at fixed rates. The parameters of the grant program were not altered by this section.

E Surcharges and Fees

Reauthorizes and increases certain fees and surcharges established under Title 42 Section 3733.1 as amended by Act 49 of 2009. A surcharge of \$11.25 on all fees established in Section 3733(a.1) that is set to expire at the end of 2017 is reauthorized until December 31, 2020. This surcharge currently brings in \$47 million annually to support the unified judicial system. An additional permanent fee of \$2.25 established under 3733(a.1) directed

to the Criminal Justice Enhancement Account is increased to \$2.50. Finally, an additional permanent fee of \$2.50 is established under 3733(a.1) and directed to a restricted account in the General Fund that shall be appropriated to the Office of Attorney General to support its general government operations.