

June 27, 2019



# **BUDGET BRIEFING**

## **2019/20 Administrative Code Analysis**

## **BILL ANALYSIS -- ADMINISTRATIVE CODE**

HB 1461 PN 2267

June 27, 2019

Prepared by the staff of the House Appropriations Committee

### Criminal History Background Checks of Employees and Contractors with Access to Federal Tax Information

Section 226 requires compliance with federal requirements for employees and contractors who have access to federal tax information. Agencies must require employees and contractors to submit to a criminal history background check, including fingerprints and any other identifying information, that is conducted by the Pennsylvania State Police. The background check must be renewed every 10 years.

State police is required to submit fingerprints to the FBI and provide state agencies with a report of the individual's criminal history record.

This information would be used to determine an individual's character, fitness and suitability to access federal tax information. All information received by an agency shall be marked as confidential and excluded from public disclosure as a public record.

### Center for Rural Pennsylvania

Section 311 adds two new members to the board of directors of the Center for Rural Pennsylvania. The Northern Pennsylvania Regional College and the Pennsylvania College of Technology shall each receive a seat.

The current board consists of 11 members, including 4 legislators, two members from the Pennsylvania State System of Higher Education, one member from Penn State University, one member from the University of Pittsburgh, the director of the Northeast Regional Center for Rural Development, and two members appointed by the governor from a list of statewide organizations, which include the Pennsylvania Rural Electric Association, the Pennsylvania Grange, the Pennsylvania Farm Bureau and the Pennsylvania Rural Coalition.

### Inspector General

Section 503-A empowers the inspector general to investigate all contracts entered into by the Pennsylvania Statewide Radio Network after June 30, 1996.

One year after the effective date, the inspector general shall submit a report on its investigation into the Pennsylvania Statewide Radio Network, including any findings, to the General Assembly.

Section 506-A would expand the powers of the inspector general to investigate and file criminal charges to a larger list of enumerated alleged criminal acts related to public benefits, including:

- Stealing
- Lying in order to steal
- Forgery
- Tampering with records of identification
- Access device fraud
- Deceptive or fraudulent business practices
- Identify theft
- Lying about one's identity to law enforcement
- Buying or exchanging SNAP benefits, stamps, authorization cards or access devices
- Fraudulent trafficking of SNAP



## Supplemental Appropriations

Section 613 requires the governor, if approved, to submit a written statement for any requested supplemental appropriations detailing the amount requested and the need for additional appropriations. The written statements must be submitted to the House and Senate appropriations chairs no later than Oct. 31 and May 31 of each year.

## Department of State Fees

Section 618-A would increase the maximum documentary fee that can be charged by the State Board of Vehicle Manufacturers, Dealers, and Salespersons.

## Revenue Estimates

Section 605-B would codify existing language from the Fiscal Code into the Administrative Code related to revenue estimates by the Independent Fiscal Office.

Consistent with current law, the IFO shall submit an initial revenue estimate by May 20 and an official estimate by June 20 of each year for the General Fund, Lottery Fund, Motor License Fund, and federal funds. The estimates shall be considered by the governor and the General Assembly as the amount of revenue which may be considered for the General Appropriations Act, unless the governor or General Assembly determines revenues are greater or less than the estimate. The IFO may amend the estimate to account for changes in law or if significant changes in economic assumptions occur.

The estimates shall be provided to the House and Senate appropriations chairs and the budget secretary.

## Structural Changes to the Joint Underwriting Association

Article IV-B would make numerous changes to the funding, administration and oversight of the Pennsylvania Professional Liability Joint Underwriting Association, or JUA.

Originally established in the Health Care Services Malpractice Act (Act 111 of 1975), the JUA is a nonprofit organization providing medical professional liability insurance to health care professionals and providers unable to secure liability coverage through standard channels and rates.

In recent years, the legislature has pursued the transfer of \$200 million from the surplus reserves held by JUA to the state's General Fund – first as a loan, then as a payment. The transfer has not occurred due to ongoing litigation.

The bill would require the operations of the JUA to be funded through state appropriations by the General Assembly.

If approved, the bill would require JUA to submit regular, written budget estimates to the budget secretary at least once every fiscal year and appear in a public hearing before the relevant standing committees in the House and senate within 30 days of submitting any such estimate.

Additionally, the bill would call for JUA to testify before the appropriations committees in the House and Senate, respectively, for the purpose of requesting state funds.

The bill includes language that classifies the JUA as a state agency subject to the Commonwealth Attorneys Act, Right-to-Know Law, Pennsylvania Web Accountability and Transparency Act (PennWATCH) and the Commonwealth Procurement Code.

The bill would require JUA to transmit a list of all employees to relevant state agencies and coordinate with the Department of Revenue to ensure that any employees with access to federal tax information has met all applicable requirements.



Finally, the bill would require the Joint Underwriting Association to use state-owned facilities for operations.

### Bureau of Occupational and Industrial Safety

Under Section 2219, for 2019/20 and each fiscal year thereafter, the Bureau of Occupational and Industrial Safety would retain an additional \$3 million of its inspection fees, for a total of \$10 million. The funds would augment the appropriation to the bureau, which performs safety inspections of things like elevators, boilers, and building plans. Any fees beyond \$10 million collected by the bureau would be deposited into the General Fund.

### Pennsylvania Commission on Sentencing

Article XXVIII-F would add a new article to the Administrative Code regarding the Pennsylvania Commission on Sentencing, changing the composition of the commission and setting the terms of current members to expire on Oct. 1, 2019.

The new commission would consist of:

- One member selected by the Speaker of the House of Representatives and who must be a district attorney
- One member selected by the president pro tempore of the Senate and who must be a defense attorney
- Two members selected by the chief justice of Pennsylvania's State Supreme Court and who must be judges of courts of record
- Two member selected by the president judge of the Commonwealth Court and who must be judges of courts of record
- One member selected by the Chief Justice of Pennsylvania and who must be a professor of law knowledgeable in criminal sentencing
- Two members of the House of Representatives, one each selected by the majority and minority leaders
- Two members of the Senate, one appointed by the president pro tempore and one selected by the minority leader
- Two ex-officio members, the secretary of Corrections and the chairman of the Board of Probation and Parole

Terms for commissioners would extend for two years. In addition to changing the composition of the commission, this section seeks to add language specifying that commission members and commission staff shall not be competent to testify in judicial, administrative, or similar proceedings.

### **Repeals:**

The bill would make repeals to effectuate the language.

### **Effective Dates:**

Sections 605-B (revenue estimates), 2219 (Bureau of Occupational and Industrial Safety Fees), and 10(2) (Commission on Sentencing terms), if approved, shall take effect immediately. Additionally, Article XV-B (JUA) as well as several repeals, if approved, shall take effect immediately.

Article XXVIII-F (Commission on Sentencing changes) and several repeals shall take effect Oct. 1, 2019, if approved.

Section 618-A (Department of State fees) shall take effect Jan. 1, 2020.

The remainder of the act shall take effect in 60 days, if approved.

