



2017/18 Administrative Code Summary **House Bill 118 Printer's Number 2256**

[Access to Federal Tax Information](#)

Section 225 would require employees with access to federal tax information to submit state and federal criminal history background checks to the employer, plus validation of eligibility to legally work in the United States. If approved, applicable employees and prospective employees shall provide fingerprints to the Pennsylvania State Police for state criminal background checks. The fingerprints would be forwarded to the FBI for a national criminal background check. Employees would be required to reapply within 10 years.

This proposed language is required to comply with IRS publication 1075 -- the "Tax Information Security Guidelines for Federal, State and Local Agencies." This publication, updated Sept. 30, 2016, provides policies, practices and controls for recipient agencies to adequately protect the confidentiality of federal tax information.

This requirement would, mainly, apply to the Pennsylvania Department of Revenue, but it would also apply 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 would only apply to employees or prospective employees who 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 also incur a cost. However, that cost is unknown.

[Pennsylvania Commission on Crime and Delinquency](#)

Section 310 would modify the Pennsylvania Commission on Crime and Delinquency's composition to allow a substitute designee for certain positions.

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

Seven of these 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.

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

Department of Health Fee Increase

Section 609-A would increase the fee for a copy of a certified death certificate from \$9 to \$20.

In cases where a local health department acts in lieu of a local registrar, the fee collected would be split as follows: \$11 retained by the Department of Health, \$8 deposited into the state's General Fund, and \$1 retained by Health for distribution to the county coroner or medical examiner.

Department of Labor and Industry Fees

Section 613-A would increase 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 Act 1A, the General Appropriations Act. In addition, new expedited inspection fees and permits would be created to allow entities to receive faster service. For inspections, expedited service would be performed within three days of receipt of a request; other expedited tasks would occur within seven days.

The increased revenues above the 2016/17 baseline would be set aside to augment the bureau's appropriation, while the baseline would remain in the General Fund. Fees would be adjusted automatically for inflation each year, based on the consumer price index.

Pennsylvania State Police

Section 616-A would allow Pennsylvania State Police to increase fees for criminal history record information under 18 Pa.C.S. Ch. 91 by publishing a notice in the Pennsylvania Bulletin.

Currently, 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 state police budget assumes \$28 million in additional fee revenue from the increase of these fees to \$22 and \$20, respectively. Section 616-A of the bill would enable PSP to implement that change.

Collections by the Attorney General

Section 922.1 would establish a restricted revenue account within the General Fund called 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 would direct that up to 25 percent of each amount collected by the attorney general would be deposited into the Collection Administration Account -- up to a total of \$2.5 million per fiscal year. The funds in the Collection Administration Account would be appropriated to the Office of Attorney General each fiscal year.

Department of Corrections

Section 915-B would direct the Department of Corrections to not close any state correctional institution during 2017/18 without first conducting a public hearing in the county where the prison is located. Notice of that hearing would have to be made public at least 30 days before it is held.

SCI-Pittsburgh closed during 2016/17 with all inmates transferred to other facilities prior to July 1. Therefore, this legislation would only apply to future prison closures.

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

Higher Education Fee Increases

Section 1322 would establish the “Higher Education Regulatory Restricted Account.” The Department of Education may use money from the account to fund its activities related to institutions of higher education. Account revenues would consist of fees charged to institutions for approval of degrees, programs, institutions, status changes and other activities. The State Board of Education would be able to adjust the fees by regulation, if necessary, to meet projected expenditures.

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

Article XV-A would provide for a \$200 million payment from the Pennsylvania Professional Liability Joint Underwriting Association, or JUA, to the state’s General Fund on or before Nov. 1, 2017.

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

The subsequent sections would stipulate that the current surplus held by the JUA is in excess of the amount reasonably needed to execute its statutory mandate, largely due to a significant reduction in medical malpractice policies and claims carried by the JUA. It proposes that the JUA is an instrumentality of the commonwealth and funds derived from premiums and investments held by the JUA do not belong to its members or policyholders but rather the commonwealth.

The bill would remove liability for any staff or board members who proceed with making the payment, and it would provide exclusive jurisdiction to the Supreme Court to hear potential challenges to render a declaratory judgement regarding constitutionality.

Finally, the bill includes a sunset provision that would dissolve the JUA should the payment not be made by Nov. 1, 2017. If that happened, assets held by the JUA would be transferred to the Insurance Commissioner and deposited in a special account. The Insurance Department would then transfer the \$200 million payment to the General Fund and use the balance to administer JUA’s remaining funds.

The 2016/17 budget included a transfer of \$200 million in the form of loan from the JUA surplus to the state’s General Fund. However, this did not occur and has since resulted in litigation. As of Dec. 31, 2016, the JUA held an unappropriated surplus of \$265.1 million.

Directive for the Environmental Quality Board

Section 1920-A would direct the Environmental Quality Board to develop regulations pursuant to Act 394 of 1937 (The Clean Streams Law). Specifically, the board would 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 would have up to 90 days from the effective date of the subsection to offer these regulations.

Recycling Fee Extension and Restricted Transfer

Section 1937-A would eliminate the sunset date for the recycling fee for municipal waste landfills and resource recovery facilities. This fee was scheduled to sunset Jan. 1, 2020.

SB 646, which the House Appropriations Committee reported out July 10, would have extended this fee to Jan. 1, 2021.

The bill also seeks to cancel 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 would 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](#)

Section 1938-A would extend the validity and applicability of permits issued to water treatment facilities at conventional oil and gas wells through Dec. 31, 2019. This would apply to wells operating under National Pollutant Discharge and Elimination System, or NPDES, and Department of Environmental Protection permits.

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

Section 1902-B would direct 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, would be reported to the General Assembly within one year.

[Emergency Drug and Alcohol Detoxification Program](#)

Section 2126 would direct the Department of Health to establish and administer a new “Emergency Drug and Alcohol Detoxification Program,” to increase the number of beds available for individuals seeking drug and alcohol detoxification services. The program would be centered on the use of existing beds in licensed health care facilities, and also provide for the establishment of new detoxification facilities through a special priority licensure process.

[PACE/PACENET Dispensing Fees](#)

Section 2214-A would set the professional dispensing fee for the PACE and PACENET programs at \$10.49 per prescription. The fee is currently \$13 per prescription, as established in Act 169 of 2016.

[Older Adult Daily Living Centers](#)

Section 2215-A would stipulate 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 would authorize the Department of Human Services to increase the fee for an individual child abuse clearance check from \$8 to no more than \$13.

[Jail Facilities](#)

Article XXIV-B would establish an alternative contracting procedure to achieve the adaptive reuse of a former jail in a county of the third class, where adaptive reuse is renovation of a former jail facility for reuse as deemed appropriate by the governing body of the county.

The governing body of the county may elect to use the alternative contracting procedure by adopting a resolution stating that it is the most efficient, economical, and timely method to complete the project.

Under an alternative contracting procedure the county selects one contractor to be responsible for all phases of development of the project. Under this section a proposer is defined as a firm, organization, company, or (partnership of those entities) that has sufficient expertise in the necessary areas to complete all phases of the project.

Selection of the contractor must be done with consideration for cost, experience, preservation of the architectural design of the facility, adherence to prevailing wage and workforce standards, and a commitment to enter into voluntary contracts with disadvantaged businesses.

This section would only apply to renovations defined as adaptive reuse of a county-owned facility that is a former jail, and that is at least 100 years old. This section would further apply only to a county of the third class defined by population such that Erie and Northampton counties are eligible.

This section applies notwithstanding Act 130 of 1955 (known as the County Code) Section 1801 (relating to contracting procedures of county commissioners for contracts and purchases not exceeding the base contract amount which is \$19,700 as of January 1, 2017). This section takes effect 60 days after passage of the Act.

Alternative Energy Portfolio Standards

Section 2804 would amend 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.

Article XXVIII-E Judicial Administration

Senior Judge Operational Support Grants

Section 2801-E would reauthorize the program that provides grants to counties to partially offset the costs of senior judges assigned to county courts of common pleas, which expired June 30, 2017. This program would make 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.

Surcharges and Fees

Section 2802-E would reauthorize and increase 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 are set to expire at the end of 2017 is reauthorized until Dec. 31, 2020. This surcharge now 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 would be established under 3733(a.1) and directed to a restricted account in the General Fund that would be appropriated to the Office of Attorney General to support its general government operations.