



HOUSE COMMITTEE ON APPROPRIATIONS
2009-10 Legislative Session

FISCAL NOTE

SENATE BILL: 1042

PRINTER'S NO: 2141

PRIME SPONSOR: Browne

FISCAL IMPACT SUMMARY	FY 2010/11	FY 2011/12
Expenditure Increase/(Decrease):		
General Fund - Pension Rate Collar Savings	(\$177,000,000)	\$0
General Fund - Use of Purchase Cards	(\$10,000,000)	\$0
Revenue Increase/(Decrease):		
General Fund	\$261,645,000	\$0
PSERS Contribution Restricted Account	\$121,000,000	\$0
Enhanced Revenue Collections Restricted Account	\$4,300,000	\$0
Specialized Juvenile Victim Compensation Fund	\$500,000	\$0
Victim Witness Services Fund	\$1,000,000	\$0
Budget Stabilization Reserve Fund	(\$745,000)	\$0
Emergency Medical Operating Fund	(\$5,000,000)	\$0
Highway Beautification Fund	(\$800,000)	\$0
Keystone Recreation, Park and Conservation Fund	(\$10,000,000)	\$0
Local Government Capital Project Fund	(\$1,000,000)	\$0
Low-Level Waste Fund	(\$2,700,000)	\$0
Oil and Gas Lease Fund	(\$180,000,000)	\$0
Pennsylvania Economic Revitalization Fund	(\$5,400,000)	\$0
Small Business First Fund	(\$4,000,000)	\$0
Tobacco Settlement Fund	(\$121,000,000)	\$0
Crime Victim's Compensation Fund	(\$1,500,000)	\$0

OVERVIEW:

Senate Bill 1042 amends the Fiscal Code (Act 176 of 1929) by providing language relating to fiscal year 2010/11 budget implementation and adding other provisions not directly related to the budget.

This act shall take effect immediately but is retroactive to July 1, 2010.

ANALYSIS:

The bill includes language that applies specifically to the General Appropriations Act of 2010. It provides enabling language to implement the expenditure of funds appropriated in the General Appropriations Act of 2010, the distribution, use and transfer of funds, as well as identifying reporting requirements on the use of funds.

Treasury

The bill extends the sunset date of the Treasurer's prudent person investment authority until December 31, 2014. The provision was set to expire on December 31, 2010. The extension of the Treasurer's current authority will not have adverse fiscal impact to the commonwealth.

The bill makes changes to the geographic location requirements for state active depositories. Existing law requires the Board of Finance and Revenue to select two banks in Dauphin County, two banks in Allegheny County and two banks in Philadelphia County, as well as thirteen additional banks elsewhere in the Commonwealth to serve as active depositories, from which the current business of the Commonwealth is conducted. The bill eliminates the geographic restriction and requires the Board of Finance and Revenue to designate at least eight banks in any part of the Commonwealth as active depositories. The elimination of the geographic mandate will not have an adverse fiscal impact to the Commonwealth.

The bill changes the collateralization requirements for Commonwealth depositories, reducing requirements from 120% to 102% collateralization. The high 120% collateralization requirement effectively restricts the number of banks who are able to become Commonwealth depositories. With a greater number of depositories, the Treasurer reports that the Commonwealth will be able to take advantage of more competitive interest rates on its deposits, which would be beneficial to the Commonwealth's finances.

Oil and Gas Lease Fund Transfer

In Fiscal Year 2010/11, \$180 million shall be transferred from the Oil and Gas Lease Fund to the General Fund.

Transit Agencies

Section 1601-G clarifies that transit agencies may issue bonds to refund obligations issued prior to June 30, 2007; may use revenue from the Public Transportation Assistance Fund to secure those bonds; and pledges the Commonwealth will not limit or alter the rights of transit agencies to refund these bonds until those bonds are fully paid. This section has no fiscal cost to the Commonwealth, but it will likely save money for transit agencies. According to the Southeastern Pennsylvania Transportation Authority (SEPTA), it may save up to \$7 million in interest payments. Other transit agencies may also save money on interest payments, but this contention was not confirmed with the other agencies.

Educational Improvement Tax Credits (EITC)

The total available Educational Improvement Tax Credits to be awarded in fiscal year 2010/11 is currently \$50 million, as contained in the Tax Reform Code of 1971 (as amended by Act 48 of 2009). The cap on available credits to be awarded would increase to \$60 million for fiscal year 2010/11. This is a cost of \$8 million to the General Fund.

Permit Extensions

The bill creates a new article providing for the following:

- The automatic suspension of the expiration of any defined approvals set to expire after December 31, 2008 but before July 2, 2013, by a governmental agency, as defined in the act.
- The automatic suspension as described above for the City of Philadelphia shall be effective after twenty days notice to the responsible City agency with a fee of 50% of the original application fee, but not to exceed \$5,000.
- The time period for obtaining a building permit for the lease to VTE Philadelphia, LP, for land of the Delaware River Bed pursuant to the Act 4 of 2008 shall be extended until January 1, 2013.
- The time period for obtaining a building permit for the lease to NCCB Associates, LP, for land of the Delaware River Bed pursuant to the Act 5 of 2008 shall be extended until January 1, 2013.

Except for the City of Philadelphia and other specific exceptions identified in the bill, "approval" is defined to include approvals, agreements, permits, or other authorization allowing development (as defined in the bill), building, construction, or relating to or affecting development granted pursuant to statute, regulation or ordinance adopted by a municipality, including 33 specific state statutes enumerated in the bill.

“Approval” is further defined as creating additional units and common elements out of convertible real estate in a condominium or planned community. For the City of Philadelphia, “approval” is defined as only the issuance of a building permit, a zoning use and registration permit, and any administrative approval that is “a condition precedent” to the issuance of a building permit or zoning use and registration.

According to the Office of the Governor, who had worked with all the relevant state agencies impacted by this proposed article, there is no cost to state agencies due to this new Article. It is not possible at this time to quantify any impact to local governments.

Heritage Area Program

Establishes a Heritage Area Program within the Department of Conservation and Natural Resources to identify, protect, enhance and promote the historic, recreational, natural, cultural and scenic resources of this Commonwealth. The department may allocate funds appropriated to the department for grants and investment programs within heritage areas, including administration and operation.

Specialized Juvenile Victim Compensation Fund

The bill transfers \$500,000 from the Crime Victim’s Compensation Fund to the Specialized Juvenile Victim Compensation Fund. This money shall be used solely to provide compensation to victims of juvenile crime in Luzerne County. The State Treasurer shall make this transfer as soon as practicable.

Victim Witness Services Fund

The bill transfers of \$1,000,000 from the Crime Victim’s Compensation Fund to the Victim Witness Services Fund to supplement, and to be distributed together with other money of the Victim Witness Services Fund, to provide victim of juvenile offender grants to counties. The State Treasurer shall make this transfer on July 1, 2011.

State Gaming Fund

At such time as at least 11 slot machine licenses have been issued and 11 licensed gaming entities have commenced operation of slot machines, the Pennsylvania Gaming Control Board shall establish a repayment schedule of the loan from the Property Tax Relief Reserve Fund to be repaid by the slot machine licensees.

Purchase Cards

The Office of the Budget shall maximize the use of purchase cards for financial transactions involving the Commonwealth where practical. The rebates generated by such use of the purchase cards are expected to generate a cost savings of \$10 million in fiscal year 2010/11.

Education

The bill also includes language which implements the education funding provided in the General Appropriations Act and other education provisions as follows:

- Authorizes school districts to reopen their 2010/11 budgets to reflect additional changes to state allocations from the enacted General Appropriations bill.
- Requires school districts to have or maintain a certified safety committee by June 30, 2011.
- Continues the 2009/10 transition language for a pool of professional and temporary employees of Scranton School for the Deaf and Scotland School.
- Stipulates that ARRA funds received shall be spent in accordance with federal guidelines
- Continues language to set the maximum payments to institutions of higher learning for defraying expenses of hearing-impaired or sight-impaired students.
- Requires the Department of Education (PDE) to treat wages paid using ARRA stabilization and ARRA IDEA-Part B as covered wages for the purposes of social security payment calculations.

- Continues the articulation agreement requirements for Community Colleges, State System of Higher Education, and State-Related Universities.
- Stipulates requirements for the use of school improvement grants as outlined in the federal program, and for relevant reporting.
- Provides for the distribution of payments in the General Appropriations Act, including pro rata language if necessary, for:
 - Community Colleges
 - Special Education
 - Educational Assistance Program
 - Accountability Block Grant
 - Public Library subsidy
 - Homebound Instruction
 - Basic Education subsidy
 - Payments of undistributed, unencumbered funds to empowerment districts
 - School Improvement Grants

Consumer Energy Program

Section 1723-L of the bill provides that no funds shall be appropriated from the General Fund to the Department of Environmental Protection (DEP) for the Consumer Energy Program, as authorized in the Alternative Energy Investment Act (Special Session Act 1 of 2008).

Enhanced Revenue Collections

This bill creates the Enhanced Revenue Account within the General Fund and requires \$4.3 million to be deposited into the account. The money deposited into the account shall come from additional revenues collected and refunds avoided as a result of expanded tax return review and tax collection activities implemented in the fiscal year. Funds in this account shall be used by the Department of Revenue for administration costs associated with increased tax collection enforcement and reduction in tax refund errors. The net effect of this activity is projected to generate and/or save a total of \$64.3 million in fiscal year 2010/11.

State Police

The Municipal Police Officer's Education and Training Commission (MPOETC) shall make payments to municipalities on a pro rata basis. This will result in no adverse fiscal impact on Commonwealth funds.

Tobacco Settlement Fund

The bill redirects into the Tobacco Settlement Fund the following: strategic contribution payments received under the Master Settlement Agreement; investment earnings on the Fund; 25% of the monies appropriated for tobacco use prevention and cessation programs under the Tobacco Settlement Act (TSA); 33.3% of the monies appropriated for Health Investment Insurance under the Tobacco Settlement Act; and 8% allocation (for two years) to Tobacco Endowment Account as specified under the Tobacco Settlement Act. A portion of these funds will be used to supplement General Fund appropriations for Medical Assistance Long-Term Care and Life Sciences Greenhouses.

In addition, the bill transfers \$121 million from the Tobacco Endowment Account to a restricted receipt account, created in the General Fund, to augment the appropriation of the required contribution for public school employees' retirement. After all other applicable transfers are accounted for, the remaining balance of the Tobacco Endowment Account also would be transferred into the Tobacco Settlement Fund.

Also, under a Fiscal Code provision added in 2009/10, \$250 million was set to transfer from the Tobacco Endowment Account to the General Fund in 2010/11. This legislation repeals this provision and instead makes the transfer of \$250 million from the Tobacco Settlement Fund to the General Fund. Again, the entire Tobacco Endowment Account will be placed in the Tobacco Settlement Fund under this legislation.

Community Health Reinvestment Restricted Account

The bill establishes a restricted account in the Tobacco Settlement Act to receive monies contributed under the Agreement on Community Health Reinvestment entered into in February 2005. This agreement is set to expire on December 31, 2010; however, a six-month extension of the agreement may be entered into for the remainder of the fiscal year. The bill includes language to provide for the deposit of funds from any such extended agreement into the established restricted account.

Budget Stabilization Reserve Fund

A transfer of \$745,000 shall be made from the Budget Stabilization Reserve Fund to the General Fund in fiscal year 2010/11.

Emergency Medical Services Operating Fund

A transfer of \$5 million shall be made from the Emergency Medical Services Operating Fund to the General Fund in fiscal year 2010/11.

Highway Beautification Fund

A transfer of \$800,000 shall be made from the Highway Beautification Fund to the General Fund in fiscal year 2010/11.

Keystone Recreation, Park and Conservation Fund

The total amount of funding available to the State System of Higher Education for deferred maintenance shall be transferred to the General Fund. According to information received from the Office of Budget, the transfer to the General Fund is expected to be \$10 million in fiscal year 2010/11.

Local Government Capital Project Fund

A transfer of \$1 million shall be transferred from the Local Government Capital Project Fund to the General Fund in fiscal year 2010/11.

Low-Level Waste Fund

A transfer of \$2.7 million shall be made from the Low-Level Waste Fund to the General Fund in fiscal year 2010/11.

Pennsylvania Economic Revitalization Fund

A transfer of \$5.4 million shall be made from the Pennsylvania Economic Revitalization Fund to the General Fund in fiscal year 2010/11.

Small Business First Fund

A transfer of \$4 million shall be made from the Small Business First Fund to the General Fund in the 2010/11 fiscal year.

Retirement

The bill provides for the certification of the employer contribution rate for the Public School Employees' Retirement System (PSERS) and the State Employees' Retirement System (SERS) as follows:

- PSERS – 5.64%, which includes 0.64% for the premium assistance contribution.
- SERS – a 1% increase over the employer contribution rate for 2009/10. The new contribution rate for 2010/11, including this increase, would be 5%.

These changes are assumed in the calculations relating to retirement contributions throughout the General Fund budget. Without these adjustments, Commonwealth expenditures would need to increase by nearly \$177 million. In addition, local school districts and municipalities would see retirement contribution costs increase as well, should these changes not take effect.

Marcellus Shale

It is the intent of the House and Senate majority leadership to pass legislation raising revenue from the extraction of Marcellus Shale Natural Gas, by October 1, 2010, with an effective date for the implementation of the act no later than January 1, 2011.

Independent Fiscal Office

It is the intent of the majority leadership of both the House of Representatives and the Senate to pass legislation establishing a new independent agency to be known as the Independent Fiscal Office no later than October 1, 2010 with an effective date for implementation no later than January 1, 2011.

Excess Tax Amnesty Repeal

Section 2912-F(c) of the Tax Reform Code of 1971 (P.L.6, No.2), relating to the tax amnesty program, included a provision requiring any revenue generated in excess of 125% of the revenue estimate to be deposited in the Budget Stabilization Reserve Fund (Rainy Day Fund). This bill repeals said section of the Tax Reform Code.

PREPARED BY: House Appropriations Committee, (D)

DATE: July 3, 2010

General Note and Disclaimer: *This Fiscal Note was prepared pursuant to House Rule 19(a), and the elements considered and reported above are required by Section 5 of the rule. Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*