

WEEKLY SESSION NOTES

SENATE REPUBLICAN POLICY COMMITTEE – EDWIN B. ERICKSON, CHAIRMAN

Tuesday, December 15, 2009

[Senate Resolution 217](#) (Orie) observes the week of November 22 through 28, 2009 as “National Family Week” in Pennsylvania. [Adopted by Voice Vote.](#)

[Senate Resolution 218](#) (Orie) designates November 18, 2009 as “Prematurity Awareness Day” in Pennsylvania and encourages efforts to fund research and programs to find causes of prematurity. [Adopted by Voice Vote.](#)

[Senate Resolution 219](#) (Tomlinson) recognizes the month of November 2009 as “National Family Caregiver Month” in Pennsylvania and commends the service family caregivers provide to older adult family members and friends. [Adopted by Voice Vote.](#)

[Senate Resolution 220](#) (Orie) honors all American and Pennsylvania military veterans on November 11, 2009. [Adopted by Voice Vote.](#)

[Senate Resolution 221](#) (Kitchen) designates the week of January 18 through 24, 2010 as “Martin Luther King Jr., Holiday Week.” [Adopted by Voice Vote.](#)

[Senate Resolution 222](#) (Stack) designates the month of November 2009 as “Long-Term Care Awareness Month” in Pennsylvania and urges all Pennsylvanians to examine their long-term care options. [Adopted by Voice Vote.](#)

[Senate Resolution 223](#) (Rafferty) congratulates the Philadelphia Phillies on the team’s successes during the 2009 Major League baseball season. [Adopted by Voice Vote.](#)

Wednesday, December 16, 2009

[Senate Bill 47](#) (Robbins) would amend the Public Welfare Code to make a number of changes. Among other provisions, the bill would remove the requirement that nominees to County Boards of Assistance be confirmed by a two-thirds vote of the Senate. The measure would add a provision requiring that each appointment to a county board by the Governor bear the endorsement of the senator of the district in which the nominee resides. In the case of a vacancy in that senatorial district, the nominee would be endorsed by the senator of an adjacent district.

Senate Bill 47 would also delete Section 441.4(a) of the Public Welfare Code, which provides that necessary medical or remedial care expenses are allowable income deductions when determining a recipient’s payment towards the cost of long-term care services. This section further provides that the allowable income deduction for these unpaid expenses incurred prior to medical assistance eligibility and incurred for long-term care services after medical assistance is authorized is subject to a \$10,000 lifetime maximum. Senate Bill 47 would

disallow, as a deduction, any long-term care medical expenses incurred six months prior to application for medical assistance. In addition, medical and remedial expenses that were incurred as a result of a transfer of assets penalty would be limited to zero unless the application of the limits would result in undue hardship.

The measure would clarify that long term care hospitals are not included in the provider assessment on hospitals in the City of Philadelphia. In addition, the bill would provide that the City of Philadelphia could retain revenues from the provider assessment to be used to fund a portion of its costs of operating public health clinics, as set forth in an agreement between the City and the Secretary. An additional change would also authorize the City of Philadelphia to extend the hospital assessment to Temple University Hospital following advance written approval by the Secretary of Public Welfare. This assessment could be enacted either prior to or during its fiscal year ended June 30, 2010.

Additional changes would require the Department of Public Welfare to make a good faith effort to determine if an applicant for cash, medical or energy assistance is a veteran. As a condition of eligibility to receive benefits, a veteran would be required to contact the appropriate agency to determine his or her eligibility for veteran's benefits. The bill would also prohibit individuals from purchasing alcohol with an electronic benefits card issued for public assistance benefits. Finally, the bill would require an employee of a county assistance office who suspects benefits fraud to make a report directly to the Office of Inspector General. The employee would not be subject to any sanctions for making a fraud report. [Concurrence in House Amendments: 46-3.](#)

[Senate Bill 711](#) (Earll) would amend the Pennsylvania Race Horse Development and Gaming Act in Title 4 (Amusements) to make extensive revisions relating to gaming, including enacting numerous reforms and authorizing table games. Among other modifications, the bill would:

Gaming Reform

- Declare that it is the legislative intent of the General Assembly that campaign contributions by certain individuals and entities subject to the act be completely banned.
- Prohibit Board members from engaging in any business, employment or vocation for which the member shall receive any compensation or remuneration which is in excess of 15 percent of the member's board salary (excluding passive or unearned income or director's fees).
- Extend the financial interest prohibition applicable to Board members and their immediate families from one year to two years, clarify that former Board members may not appear before the Board as an advocate for at least two years after their terms in office, and extend the prohibition from one to two years after termination against Board members, employees or independent contractors of the Board from receiving a complimentary service or prize.

- Extend the post-employment prohibitions on future Board employees including attorneys and future independent contractors from one to two years, and extend, from two years to five years, the post employment prohibitions of a removed member, employee, or independent contractor.
- Require the State Ethics Commission to publish a list of PGCB employment and independent contractor positions subject to the ban.
- Provide that in the event of a budget impasse or fiscal crisis, employees of the Board, the Department of Revenue, and the Pennsylvania State Police whose duties involve the regulation and oversight of gaming shall not be subject to furlough.
- Require the Pennsylvania State Police rather than the PGCB's Bureau of Investigation and Enforcement to conduct background investigations of key Board employees.
- Raise the required standard of proof from "by a preponderance of the evidence" to "by clear and convincing evidence" with respect to an applicant's suitability to hold a license, registration, certificate, or permit.
- Permit the Board to collect and post information on its Internet website regarding the controlling interest or ownership interest of an applicant for a slot machine license or a licensed gaming entity.
- Strengthen provisions regulating ex parte communications by members, attorneys, employees, and hearing officers of the Board, including maintaining a formal log of such communications; and establish a recusal process for such individuals.
- In certain circumstances, permit the Board to appoint a trustee to act on behalf of the Commonwealth; grant authority to the Board to set forth the powers, duties and responsibilities of the trustee; limit the compensation for the trustees and all individuals hired by the trustee to \$600 per hour in the aggregate adjusted for inflation or for good cause shown upon petition by the Director of the Office of Enforcement Counsel; and provide for the disposition of net income during the period of trusteeship.
- Limit reimbursement of expenses of Board members and employees as well the expenses of employees of other agencies (for example, PSP, AG, and Revenue) involved in gaming enforcement to actual and reasonable expenses incurred during the performance of their duties, and require the monthly and annual posting of such expenses on the Board website.
- Require a public input hearing prior to approving the structural redesign of a licensed facility located in a city of the first class and require that the Board establish a public comment period prior to approving any such structural redesign or before licensing a facility.

- Clarify information submitted by an applicant or licensee that should be kept confidential (information that is publicly available including information from a criminal history check would not be considered confidential), and would classify the illegal disclosure of such information as a misdemeanor.
- Increase the ban on issuing a principal license or key employee license to an individual previously convicted of a felony from 15 years to life.
- Require all applicants for a license or permit to fully disclose all arrests including all citations for nontraffic summary offenses and the criminal dispositions in such cases, including any dismissal, plea bargain, pardon, expungement or ARD order, etc.
- Regulate gaming service providers and authorize the organization and conduct of gaming junkets.
- Require the Office of the Budget to submit an annual report to the General Assembly regarding distribution from the Pennsylvania Gaming Economic Development and Tourism Fund, and require that any entity receiving such funds to report to the Office of the Budget and to the General Assembly how such funds are distributed.
- Clarify that following the distribution of \$42.5 million from the PGEDTF to Allegheny County for the Allegheny County airport, all remaining funds shall be distributed directly to the airport authority.
- Require the Board to ensure the Bureau of Investigations and Enforcement is a distinct entity and to prevent commingling of the investigatory and prosecutorial functions of the Bureau with the adjudicatory functions of the Board, and specify that the BIE is prohibited from disclosing any portion of a background investigation report to any PGCB member prior to submission of a final report.
- Require the Pennsylvania State Police to submit an annual report to the General Assembly summarizing law enforcement activities at each licensed facility.
- Clarify change of ownership and portability issues with respect to slot machine licensees and licenses, and extend various permits and licenses from one year to three years.
- Expand diversity requirements to address professional employees, contractors and vendors.
- Permit the Chief Enforcement Counsel to petition the Commonwealth Court for authorization to review or obtain information in the possession of an agency in this Commonwealth by averring specific facts demonstrating that the agency has in its possession information material to a pending investigation or inquiry being conducted by the Bureau and that disclosure or release is in the best interest of the Commonwealth.

Table Games

- Declare that it is the legislative intent of the General Assembly to authorize the operation of slot machines and table games under a single slot machine license (a separate table games certification would be required) issued to a slot machine licensee in order to increase revenues to the Commonwealth and to provide new employment opportunities by creating skilled jobs for individuals relating to the conduct of table games.
- Define “table games” as “any banking, non banking or percentage game” to include blackjack, roulette, craps, baccarat, poker, big six wheel, etc; however, the term would not include state lottery games, bingo, pari-mutuel betting, small games of chance, slot machine gaming or keno.
- Permit table games at eligible Category 1 (harness and horse racing track), Category 2 (freestanding), and Category 3 (resort) slot machine casinos. Table games would be permitted within a temporary facility until a licensed facility could construct a permanent area to accommodate such games.
- Authorize up to 250 table games per licensed facility for Category 1 and 2 licensees with no more than 30 percent of these authorized for nonbanking games (for example, poker) at any one time, a figure that may eventually be increased upon petition to the Board.
- Authorize up to 50 table games with no more than 15 tables to be used for games at any one time for Category 3 licensees.
- Authorize holders of a table games certificate to conduct poker tournaments with such tournaments limited to one day per month at Category 3 casinos.
- Require the Board to hold at least one public input hearing in the municipality where the licensed facility is located on the matter of granting a table games certificate to a slots licensee.
- Provide for the training of table game employees and require the Board to oversee the security and surveillance of table games.
- Assess a one-time authorization fee for a table game operation certificate of \$16.5 million (on or before June 1, 2010) or \$24.75 million (after that date) for Category 1 and Category 2 licensees, with such fees to be deposited into the General Fund.
- Assess an authorization fee for a table game operation certificate of \$7.5 million (on or before June 1, 2010) or \$11.25 million (after that date) for Category 3 licensees, with such fees to be deposited into the General Fund.
- Tax daily gross table game revenue at each facility at a rate of 14 percent for the first two years of operation at a licensed facility, with the rate subsequently reduced to 12 percent, with proceeds to be deposited into the General Fund; but provided that if, on the last day

of a fiscal year, the Rainy Day Fund balance exceeds \$750 million, then the tax revenue generated from table games would be applied to property tax relief rather than supplementing the General Fund.

- Assess daily gross table game revenue an additional two percent, with the proceeds to be divided between the host county and municipality.
- Prohibit the permanent removal of slot machines in order to install table games and require maintenance of the number of slot machines in operation on October 1, 2009, but in no event less than 1,500 slot machines in a Category 1 or Category 2 casino or 500 machines at a Category 3 casino.
- Require suppliers of table game supplies to pay a licensing fee of \$25,000 with an annual renewable fee of \$15,000, fees payable to the General Fund.
- Require manufacturers of table game supplies to pay a licensing fee of \$50,000 with an annual renewable fee of \$30,000, fees payable to the General Fund.
- Require 85 percent of employees of table game operators to be Pennsylvania residents within three years of the commencement of operation.
- Reduce local law enforcement grants from \$5 million to \$2 million annually, expand the use of such grants to the enforcement and prevention of all forms of unlawful gambling rather than just the unlawful operation of slot machines, and permit the Pennsylvania State Police to qualify as local law enforcement in a municipality that does not have its own municipal police force.
- Provide for the distribution of the local share of table game revenue to counties and municipalities including some modifications to the local share distribution for slot machine revenue.
- Reopen the application process for the second Category 3 license.
- Provide for the establishment of gaming schools by the Department of Labor and Industry (in consultation with the Department of Education and the Board), including the development of curriculum guidelines and proficiency standards, for employment opportunities associated with slot machines or table games, including machine and device maintenance and repair.
- Provide a supplemental appropriation of \$2.1 million to the Board to fund expenses necessary for the implementation of table games.
- Transfer approximately \$40 million per year for four years from the Race Horse Development Fund to the General Fund.

- Increase the transfer of funds for compulsive gambling treatment to \$2 million per year from the current \$1.5 million or 0.2 percent of gross terminal revenues, whichever is greater, and transfer an additional \$3 million per year to the Department of Health for drug and alcohol addiction treatment services, including treatment for drug and alcohol addiction related to compulsive and problem gambling.
- Permit table game operators to accept checks from and extend interest-free unsecured credit to patrons for the purpose of gaming; however, credit, charge, and debit cards would be prohibited for such purposes.
- Empower the Board with the specific power and duty to ensure the integrity of the conduct, establishment and operation of authorized table games. To facilitate the prompt implementation of table games, the Board would be permitted to enact temporary regulations (which must expire no later than two years following publication) exempt from requirements of the Commonwealth Documents Law and of the Independent Regulatory Review Commission process. [Concurrence in House Amendments, as Amended: 27-22.](#)

[Senate Bill 1039](#) (Corman) would appropriate \$34,419,000 to the University of Pennsylvania for veterinary activities during the 2009-2010 Fiscal Year. The bill would also appropriate \$113,000 to the trustees of the University of Pennsylvania for the general maintenance of the University of Pennsylvania Museum and the purchase of apparatus and equipment as the trustees may deem necessary for the best interest of the museum. [Concurrence in House Amendments: 46-3.](#)

[Senate Resolution 161](#) (Argall) establishes a commission of private and public sector cost-minded leaders of the Commonwealth to study the management of current government operations and to make recommendations of cost-cutting measures. [Adopted by Voice Vote.](#)

[Senate Resolution 224](#) (Pippy) recognizes the Watson Institute for its work with children with autism and as one of Pennsylvania's regional autism centers. [Adopted by Voice Vote.](#)

[Senate Resolution 225](#) (M. White) recognizes the week of January 24 through 30, 2010 as "National Nurse Anesthetists Week" in Pennsylvania. [Adopted by Voice Vote.](#)

[House Bill 1418](#) (D. Evans) is the Capital Budget and Project Itemization Act of 2009-2010. The bill authorizes capital projects totaling \$1,682,000,000. The legislation would authorize: \$920,000,000 for buildings and structures; \$15,000,000 for furniture and equipment; \$192,000,000 for transportation assistance projects; \$325,000,000 for redevelopment assistance projects; \$30,000,000 for flood control projects; and, \$200,000,000 for bridge projects. The measure would also authorize five additional capital projects totaling \$143,000,000 in the category of transportation assistance projects for rural and intercity rail service projects. [Passed: 48-1.](#)

[House Bill 1847](#) (Harhai) would amend the Coal Refuse Disposal Control Act to include an area adjacent to, or an expansion of, an existing coal refuse disposal site as a preferred site for coal refuse disposal. The measure would also establish a three-member Coal Bed Methane Review

Board to resolve disputes over the location of coal bed methane wells and access roads. The board would be appointed by the Governor as follows: one member from a list of three individuals submitted by the Pennsylvania Farm Bureau; one member from a list of three individuals prepared jointly by the Pennsylvania Oil and Gas Association, the Independent Oil and Gas Association of Pennsylvania and the Pennsylvania Coal Association; and, one member with expertise in petroleum geology or engineering with at least three years of experience in practice in Pennsylvania from a list of three individuals prepared jointly by the Deans of the College of Agricultural Sciences and the College of Earth and Mineral Sciences of the Pennsylvania State University. Upon the occurrence of a vacancy, the appropriate entity would submit a new list to the Governor within 30 days of the vacancy. Members of the Board would be compensated at the appropriate per diem rate based on the prevailing formula administered by the Commonwealth, but not less than \$150 per day, plus all reasonable expenses incurred while performing their official duties. Compensation would be adjusted annually for inflation. The Department of Environmental Protection (DEP) would provide administrative and clerical support to the board as requested.

The bill would require a well operator who intends to drill a coal bed methane well or construct an access road to provide written notification to the surface owner as required under the Oil and Gas Act. In addition, the well operator would have to include the written statement included in the bill explaining the surface owner's right to participate in alternative dispute resolution for disputes over the well's or road's location. A surface owner would have 15 days to file written objections to the location of the well or road with the Board. The legislation outlines the process for the dispute resolution conference and the timelines for various actions during the process. If the objections are not resolved through the conference process, the Board would make a determination in writing establishing a location for the well or road that will cause only those surface impairments that are reasonably necessary for purposes of extracting the coal bed methane. The Board's decision could be appealed to the court of common pleas in the judicial district in which the affected property is located. The court would be required to hold a hearing within 30 days and render its decision within 60 days. The only issue to be determined by the court would be whether the location of the disputed well or road will cause only those surface impairments that are reasonably necessary for extracting the methane. If the court determines that the location does not meet this standard, it would establish a location that, in its opinion, meets this standard.

Upon the determination of a final location, DEP would accept an application from the operator and proceed to issue or deny the permit. Any determination made by the Board would be binding on the Department. However, the Board's determination would not limit or otherwise affect DEP's regulatory authority under the Oil and Gas Act, the Clean Streams Law, or any other applicable law. The act would supersede any local ordinances and resolutions dealing with material regulated by the act. Nothing in the act would preclude a person from seeking other remedies allowed by statute, common law, deed or contract, nor would the act diminish or alter rights previously established or granted by statute, common law, deed or contract.

Passed: 49-0.

Executive Session

Nominations to Various Boards and Commissions, including the Honorable Russell C. Redding as the Secretary of Agriculture. **Confirmed: 48-1.**

(2009-160)