

WEEKLY SESSION NOTES

SENATE REPUBLICAN POLICY COMMITTEE – JOHN PIPPY, CHAIRMAN

Wednesday, August 26, 2009

[Senate Bill 369](#) (Logan) would amend the Emergency and Law Enforcement Personnel Death Benefits Act to permit the Commonwealth to pay the death benefit provided for in the act directly to a surviving spouse or, if there is no surviving spouse, to the minor children of the deceased paid firefighter, ambulance service or rescue squad member, or law enforcement officer. Under current law, the payment is made to the political subdivision which passes it along to the survivors. The bill would also provide an additional benefit equal to the monthly salary of the deceased paid firefighter, ambulance service or rescue squad member, or law enforcement officer, less any workers' compensation or pension or retirement benefits paid to the survivors. The monthly payments would continue until there is no eligible beneficiary to receive them. If no spouse or minor children survive, a single sum of \$100,000 would be paid to the parent or parents of the paid firefighter, ambulance service or rescue squad member, or law enforcement officer. An additional change would extend the lump sum benefit to the survivors of volunteer firefighters and ambulance service or rescue squad members who died as a result of the performance of their duties. **Passed: 47-0.**

[Senate Bill 921](#) (Tomlinson) would amend the Board of Vehicles Act to further address business relationships between Pennsylvania car dealers and the manufacturers of the motor vehicles they sell, with regard to decisions by dealers to offer for sale an additional line of new vehicles. Section 2 of the Act would be amended to add new definitions for:

- “dual” or “dualing”, defined as a new vehicle dealership having two or more line-makes of new vehicles in the same dealership facilities; and
- “line-make”, defined as groups of vehicles offered for sale under a common trademark or brand name.

Section 11 of the Act would be amended to provide that “mandatory mediation” would not be required when a dealer seeks to “dual” two or more manufacturing franchises, or seeks a relocation involving a request to “dual”, unless another dealer of one of the line-makes involved has the right to file a protest under Section 27 of the Act.

In addition, the bill would amend Section 12 of the Act, regarding unlawful acts by manufacturers or distributors, to clarify that a dealer must maintain a reasonable line of credit for each make or line of new vehicles he is offering for sale or lease, and that he must continue to comply with reasonable terms of his franchise agreement, including facilities requirements, but not including any “exclusive” non-dualing requirements. This section would be further amended to establish procedural steps for the filing of complaints, petitions or protests by either the dealer or the manufacturer. The burden of proof that a relocation or dualing request is unreasonable

would be upon the manufacturer. An additional change would prohibit a dealer from unreasonably expanding, constructing or modifying his facilities for the sale or service of a “line-make” of a vehicle if economic conditions do not clearly justify a separate facility.

Finally, Section 17 of the Act, regarding requirements for the repurchase of dealer inventory by manufacturers and distributors when the dealer’s franchise has been terminated, would be amended. Existing law authorizes reimbursement for the return of any new, undamaged inventory received by the dealer within 120 days prior to receipt of the franchise termination notice. The new language would extend that time period to 18 months, and require manufacturers to repurchase these vehicles whether they were originally acquired from the manufacturer or acquired in the ordinary course of business from another dealer of the same “line-make.” In addition, the amendments to this section would redefine a “new vehicle” as one with less than 750 miles on it. The existing law establishes this figure at 500 miles.

Concurrence in House Amendments: 47-0.

[Senate Bill 1047](#) (Scarnati) would amend the Rail Freight Preservation and Improvement Act to include the wholly owned affiliates of a railroad company under the provision which allows the Department of Transportation to enter into a contract without advertisement for competitive bids for certain improvements when the work is done at cost by the personnel and with the facilities of the railroad company. **Passed: 47-0.**

[House Bill 222](#) (Baker) would amend Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes to provide for restitution for identity theft. The bill would require the court to sentence a person convicted of access device fraud or identity theft to make restitution for all reasonable expenses incurred by the victim or on the victim’s behalf to investigate theft of the victim’s identity; to bring or defend civil or criminal actions related to the theft of the victim’s identity; or to take other actions to correct the victim’s credit record or negative credit reports related to the identity theft. This restitution would be in addition to any other restitution sentence or order authorized by law. The types of expenses recoverable would include, but not be limited to, fees for professional services, fees and costs imposed by credit bureaus and court costs. The bill would repeal the existing provisions for restitution for identity theft in Section 9720.1 of Title 42. **Passed: 47-0.**

[House Bill 1828](#) (Williams) would amend the Municipal Pension Plan Funding Standard and Recovery Act to provide for comprehensive municipal pension reform. Among other provisions, the bill would:

- Mandate actuarial funding standards for all municipal pension systems.
- Provide for mandatory and optional local government remedies based upon the severity of a municipal plan’s distress which is calculated by the ratio of the plan’s assets to liabilities:
 - Minimally Distressed Plans [Level I: 70 – 89 percent funded] would be permitted a reduction in contribution limits for two years and would be authorized to exceed maximum earned income or real property tax caps with the proviso that all such

taxes must be specifically allocated to reduce unfunded pension liabilities (special municipal taxing authority).

- Moderately Distressed Plans [Level II: 50-69 percent funded] would be: permitted a reduction in contribution limits for four years, required to aggregate trust funds, required to submit an administrative improvement plan, prohibited from increasing pension benefits until the plan is 90 percent funded, permitted to establish a revised plan for newly hired employees, and permitted special municipal taxing authority.
- Severely Distressed Plans [Level III: less than 50 percent funded] would be: required to enter a municipal pension recovery program administered by the Pennsylvania Municipal Retirement Board and to utilize actuarial assumptions established by the Board, to utilize a revised benefit plan for new employees, and to transfer assets to the Pennsylvania Municipal Retirement System. The municipality would be permitted to pay a reduced minimum obligation and would be permitted special municipal taxing authority.
- Establish a recovery program for Level III municipal pension systems to be administered by the Pennsylvania Municipal Retirement Board. After a municipal pension system has lapsed to level III status and has been taken over by the Board, the pensions of newly hired or returning employees could be subject to Social Security offset provisions.
- Establish a Code of Conduct for municipal pension systems that would:
 - Require pension systems to adopt procedures to advertise and review proposals for contracts for professional services.
 - Require service contractors to disclose the names and titles of the individuals providing services.
 - Require the system to adopt policies regarding conflicts of interest including revolving door policies for employees of the system and the contractor.
 - Prohibit service contractors from hiring third parties or lobbyists to communicate with the municipality or municipal pension system.
 - Require disclosure of campaign contributions for the last five years and prohibit a contract with a person who made a contribution to an official of the municipality within the last four years.
 - Prohibit the contractor from having any business relationship with a system official and prohibit gifts to system officials and employees.
- Exempt cities of the first class (Philadelphia) from Level III distress provisions until January 1, 2016.

- Allow Philadelphia to amortize its unfunded actuarial accrued liability as of July 1, 2009 over 30 years. Other special provisions relating to Philadelphia would:
 - Permit the City to defer a portion of its minimum obligation to the fund for fiscal years 2009-2010 and 2010-2011 in amounts not to exceed \$115 million and \$80 million respectively with interest payable at 8.25%, to be repaid in full by June 30, 2014.
 - Permit the City to temporarily (until July 1, 2014) impose an additional local sales and use tax of 1 percent (from 7 percent to 8 percent), with all such revenues required to be used to pay Philadelphia's pension systems obligations.
 - Require the City to freeze pension benefits for exiting employees and to engage in collective bargaining for a revised benefit plan (costing no more than 80 percent of the existing plan) applicable to any newly hired employee.
- Freeze the Pittsburgh parking tax at 37.5 percent (40 percent if the City sells all of its parking facilities), dedicating 6.7 percent of the amount collected to fund pension liabilities, and grant current municipal pension employees in that city hiring priority with the state system.
- Provide for the establishment and administration of local government deferred retirement option plans for active employees that would permit disbursement of the accumulated payments and interest earnings as a lump sum upon termination of employment.
Passed: 38-9.

Executive Session

Nominations to Various Boards and Commissions. **Confirmed: 47-0.**

(2009-123)