

# WEEKLY SESSION NOTES

SENATE REPUBLICAN POLICY COMMITTEE – DAVID G. ARGALL, CHAIRMAN

**Monday, July 13, 2020**

[Senate Bill 836](#) (Regan) would amend the Public School Code to incorporate the provisions of the Sudden Cardiac Arrest Prevention Act and to update the law to require that information about electrocardiogram testing be included in the materials about sudden cardiac arrest provided annually to student athletes, parents and coaches. The updated materials would have to include information about electrocardiogram testing and the option to request, from the family's medical provider, the administration of an electrocardiogram, in addition to the comprehensive initial participation physical examination, at a cost to be incurred by a parent or guardian. The information would also have to be posted to the Department of Health's and the Department of Education's websites. **Concurrence in House Amendments, as Amended: 49-0.**

[House Bill 732](#) (Kaufer) would amend the Tax Reform Code of 1971 to provide an exclusion to the Realty Transfer Tax for volunteer fire and emergency services companies and to add Article XVII-L creating the Local Resources Manufacturing Tax Credit. The tax credit would be equal to \$0.47 per unit of dry natural gas purchased and used in the manufacturing of petrochemicals or fertilizers in the state by a qualified taxpayer as defined in the bill. A qualified taxpayer would be required to invest a minimum of \$400 million in the construction of a facility, create a minimum aggregate total of 800 new jobs and permanent jobs, pay the prevailing wage as outlined in the legislation and make a good faith effort to employ local workers. A company would have to use carbon capture and sequestration technology, or similar technologies, at the project facility to the extent it is cost effective and feasible.

An eligible company could apply to the Department of Revenue for the tax credit by March 1 for the natural gas purchased during the prior year. The Department could require information necessary to document the amount of gas purchased and used. Applications would have to be reviewed and approved or disapproved by May 1. The Department of Revenue could not award more than \$26,666,668 in tax credits in any fiscal year and could not award tax credits that total more than \$6,666,667 each to more than four qualified taxpayers per fiscal year.

A qualified taxpayer would have to use a tax credit against the qualified tax liability incurred in the taxable year for which the tax credit was approved. Further, the tax credit could only be applied against up to 20 percent of the qualified taxpayer's tax liabilities and after all other statutory tax credits and deductions available to the taxpayer have been used. Credits could not be carried back, carried forward or used to obtain a refund. Qualified taxpayers that are pass-through entities could transfer all or a portion of the tax credits to shareholders, members or partners of the entity. A qualified taxpayer could sell or assign a tax credit under the provisions outlined in the legislation.

No later than the year after which tax credits are first awarded, and each October 1 thereafter, the Department would have to report to the chairs of the Senate and House Appropriations and Finance Committees on the tax credit. Ten years after the first tax credits are

awarded, the Department would be required to submit a reconciliation report on the effectiveness of the tax credit to the General Assembly. If the reconciliation report reveals the total amount of tax credits granted exceeds the total amount of certain specified tax revenue, the report would have to include recommendations for changes in the calculation of the credit. The reports required under the legislation would be public records and would have to be made available on the Department's website. The article would apply to the purchase of dry natural gas produced in the state from January 1, 2024 to December 31, 2049. The article would expire December 31, 2050. [Passed: 40-9.](#)

### **Tuesday, July 14, 2020**

[Senate Bill 940](#) (DiSanto) would amend the Municipal Code and Ordinance Compliance Act to provide for the recording of a condemnation order against a property by a municipality with the tax claim bureau and the recorder of deeds. Any costs associated with the recording of the order could be recovered from tax sale proceeds or directly from the purchaser. A properly recorded condemnation order would be a lien on the property and could not be removed due to an upset, judicial or repository sale of the property. If the municipality vacates the condemnation order, the municipal code officer would have to file, within 15 days, a statement with the office of recorder of deeds indicating that the condemnation order has been vacated. [Passed: 49-0.](#)

[House Bill 672](#) (Ortitay) would amend Act 10 of 1970 to revise provisions regarding consent to services for minors related to mental health treatment. The bill would provide for the following with regard to voluntary inpatient and outpatient mental health treatment:

- A parent or legal guardian of a minor less than 18 years of age could consent to care without a minor's consent.
- A minor, at least 14 years of age, could consent to care without the consent of a parent or guardian.
- A minor could not abrogate consent provided by a parent or guardian, nor may a parent or guardian abrogate consent given by a minor.
- A parent or legal guardian who has provided consent to treatment could revoke that consent unless the minor agrees to the continued treatment.
- A minor who is 14 to 18 years of age who has provided consent to treatment could revoke that consent unless a parent or legal guardian provides for continued treatment.
- At the time of admission, the minor would have to be provided with an explanation of the mental health treatment and their rights, including the right to object to treatment at any time by filing a petition with the court.
- When a petition is filed on behalf of a minor who objects to continued inpatient treatment, the court would be required to appoint an attorney for the minor and schedule a hearing within 72 hours to determine if the treatment is in the minor's best interest.

Inpatient care for the minor could continue only if: 1) the minor has a diagnosed mental disorder; 2) the disorder is treatable; 3) the disorder can be treated in the facility where the treatment is taking place; and 4) the treatment setting is the least restrictive alternative that is medically appropriate.

- A minor ordered to remain in treatment by the court would be required to remain and receive inpatient treatment at the setting designated by the court for a period of up to 20 days, unless the attending physician determines treatment is no longer needed or the parent or guardian revokes consent. If the attending physician determines continued treatment is needed after the 20-day period, and the minor does not consent, the court would have to conduct another hearing to determine whether to release the minor or make a subsequent treatment order not to exceed 60 days.

When a parent or legal guardian has consented to voluntary inpatient or outpatient mental health treatment of a minor, the following applies to the release of the minor's medical records and information:

- The parent or guardian could consent to the release of the minor's medical records and information to the minor's current mental health treatment provider.
- If deemed pertinent by the current mental health provider, the release of information could include a minor's mental health records from a prior mental health treatment.
- The parent or guardian could consent to the release of the minor's mental health records to the primary care provider, if in the judgment of the current mental health provider, the release would not be detrimental to the minor. **Passed: 49-0.**

**House Bill 1437** (M. K. Keller) would amend the Tax Reform Code of 1971 to modify provisions related to the City Revitalization Investment Zones (CRIZ) Program and the Rural Jobs and Investment Tax Credit. Regarding the CRIZ Program, the legislation would provide extensions for qualified businesses to submit certain tax reports and permit a contracting authority to temporarily use monies for the payment of grants or loans to qualifying businesses, political subdivisions and municipal authorities within the zone until June 30, 2021. No penalty could be imposed by the Department of Revenue or a local taxing authority for the failure to file a complete and timely zone report in 2019 and 2020. Additionally, the bill would clarify that monies not utilized, budgeted, or appropriated by official resolution of a contracting authority by April 15 annually would have to be submitted to the State Treasurer for deposit into the General Fund of the Commonwealth. With regard to the Rural Jobs and Investment Tax Credit, the bill would lower the investment authority limit from \$100,000,000 to \$50,000,000, require that at least sixty percent of a rural growth fund's investment authority be comprised of credit-eligible capital contributions and specify that the Department of Community and Economic Development would have to revoke a tax credit certificate awarded under the program if a rural growth fund invests more than 20 percent of its investment authority in the same rural business.

**Passed: 49-0.**

[House Bill 1459](#) (Schlossberg) would amend Title 35 (Health and Safety) of the Pennsylvania Consolidated Statutes to require the Secretary of Health, in cooperation with other officials and agencies identified in the bill, to develop mental wellness and stress management guidelines for emergency responders who suffer or may have suffered from posttraumatic stress or traumatic brain injuries in their role as first responders.

The Secretary would also be required to establish at least one peer-to-peer support service program in each of the Department's regional or district offices. The program would have to provide support for mental health issues, alcohol, substance abuse or chemical dependence, sexual abuse trauma, workplace abuse, co-occurring disorders and any other support services the Department deems necessary. The Department would have to develop guidelines for recruitment and training of entities capable of providing the peer-to-peer support and establish a credentialing requirement and a certificate evidencing a provider's qualifications.

An additional provision would require the Department to establish a toll-free helpline to respond to calls from emergency responders. All sites where emergency responders serve would be required to post signs that include the toll-free helpline. The number would also have to be posted on the Department's website and the website of any cooperating officials and agencies.

The bill would further require the Department, in consultation with the Pennsylvania Emergency Health Services Council's Critical Incident Stress Management Committee, to establish a Statewide Critical Incident Stress Management Program to identify the emotional impact that incidents have on emergency responders. The Department would also be directed to develop a trauma and suicide awareness and impact training program. It could contract with a third-party provider to provide the training which would be required as part of the initial and continuing education of emergency responders.

The legislation would prohibit the disclosure of any information regarding a responder without their consent, except in cases where a trained support provider believes a clear and present danger to the responder or other individuals exists. The Department could use up to \$250,000 from the Catastrophic Medical and Rehabilitation Fund for the victims of trauma. The bill would also clarify provisions governing immunity from civil liability for commonwealth agencies engaged in emergency services. [Passed: 49-0.](#)

[House Bill 2484](#) (White) would amend Title 15 (Corporations and Unincorporated Associations) and Title 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes to increase spending limitations for nonprofit corporations and charitable trusts, and provide for nonjudicial settlement agreements.

Section 5548 of Title 15 and Section 8113 of Title 20 would be amended to authorize a nonprofit corporation or charitable trust with a total return investment policy to annually designate up to ten percent of the total value of the trust or assets held as spendable income. In setting the percentage, the board of directors or trustee would be required to consider both the long-term preservation of the real value of the assets and the corporation's need for capital to fulfill its mission. The change would only apply during calendar years 2020, 2021 and 2022, or for the corporation's fiscal years that end during those calendar years.

The bill would add a new Section 5548.1 to Title 15 to allow a donor and nonprofit corporation to enter into a nonjudicial settlement agreement related to property transferred to the corporation and any corresponding restrictions so long as a court could have approved the agreement and the property remains committed to a charitable purpose. A corporation could seek court review of an agreement. A donor, corporation, organization named in the gift instrument, the Office of the Attorney General or any other person with sufficient standing could bring a proceeding to enforce a gift instrument. **Passed: 49-0.**

### **Wednesday, July 15, 2020**

**Senate Bill 14** (A. Williams) would amend Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes regarding probation. The bill would mandate that an initial probation review conference be held after an individual has completed three years of probation following a misdemeanor conviction or after five years of probation following a felony conviction. Conferences could be held up to six months earlier than the otherwise specified time period based on the conduct of a defendant and based on the achievement of certain educational, employment and other goals as outlined in the bill. A defendant sentenced to a period of probation consecutive to a period of incarceration in a state correctional institution would be eligible for an initial probation review conference 12 months prior to the date that they would otherwise be eligible if the defendant completed the final 12 months of state parole supervision without violating the terms and conditions of their parole.

An individual would not be eligible for a probation review if he or she has had certain specified technical violations during the nine months prior to the date a conference would otherwise have been held or if he or she had other technical violations during the six months prior to the date a conference would have otherwise been held. Also, if an individual was convicted of a misdemeanor or felony offense committed while either incarcerated or serving probation, the individual would not be eligible for a probation review.

If a defendant is ineligible for a scheduled review conference as a result of a technical violation involving sexual conduct, assault, the use or possession of a weapon, or the individual absconded or failed to adhere to programs or conditions on three or more occasions, the review conference would be held nine months after the date that the technical violation occurred as long as all other conditions have been satisfied. If a defendant is ineligible for a scheduled review conference as a result of a technical violation other than the types listed, the probation review conference would be held six months after the date that the technical violation occurred providing all other conditions have been met.

Following the probation review conference, the court would terminate probation unless the defendant poses a threat to public safety, has not completed his or her necessary treatment or other programs or if the defendant has not paid restitution. If the court does not terminate probation solely due to the failure to pay restitution in full, the defendant would be placed on administrative probation which requires the defendant to : 1) make supervision contact at least once a year; 2) provide updated contact information upon a change in residence or employment; and 3) pay the remaining restitution owed on a schedule the defendant can afford. If probation is

not terminated as a result of a probation review conference, the defendant would be entitled to a new conference within 12 months unless the defendant is convicted of certain offenses outlined in the bill.

The bill would restrict the ability of the court to incarcerate individuals who violate probation. Incarceration would be permitted if an individual is convicted of another crime or commits certain technical violations outlined in the bill. Incarceration would be limited to a maximum of 14 days for a first technical violation and a maximum of 30 days for a second. The court could consider incarceration after a probation violation to be served on weekends or other non-workdays. The court would be required to allow an individual to temporarily leave the jurisdiction of the court unless the court finds a specific reason that the individual will abscond, cause harm to himself or others or commit a crime. The changes would apply to individuals sentenced or resentenced after the effective date of the act. [Passed: 50-0.](#)

[Senate Bill 932](#) (Boscola) would amend Title 35 (Health and Safety) of the Pennsylvania Consolidated Statutes to allow certain municipalities to adopt ordinances prohibiting the use of consumer fireworks and to expand fire relief funding to include combination fire companies. The legislation would authorize a city of the first class, second class, second class A and third class with a population of at least 58,000 to adopt an ordinance or resolution prohibiting the use of consumer fireworks within the boundaries of the municipality. An offense would be graded as a summary offense punishable by a fine of \$500 for first time offenders and a fine of \$1,000 for a second or subsequent offense. Each firework in the perpetrator's possession would also be confiscated by law enforcement for a second or subsequent offense. All fines collected for prohibited usage of fireworks would be retained by the municipality and used by law enforcement to increase enforcement actions under the section. An additional provision would prohibit any person from intentionally igniting or discharging consumer fireworks within 150 feet of a railroad train or motor carrier vehicle hauling combustible or flammable liquid. The measure would also broaden the definition of "volunteer firefighters' relief association" to include fire companies that are a combination of a volunteer fire company and a paid fire company. [Passed: 49-1.](#)

[Senate Bill 1166](#) (K. Ward) proposes three distinct and separate amendments to the Pennsylvania Constitution. The first proposed change would amend Article I by adding Section 29 which states, "Equality of rights under the law shall not be denied or abridged in the Commonwealth of Pennsylvania because of the race or ethnicity of the individual." The second would amend Article III, Section 9 to explicitly exclude from the presentment requirement concurrent resolutions related to the termination or extension of a disaster emergency declaration as declared by an executive order or proclamation. The final change would amend Article IV by adding Section 20 to require the passage of a concurrent resolution by the General Assembly for the Governor to extend an emergency declaration beyond 21 days. Upon expiration of the declaration, the Governor could not declare a new emergency based on the same or substantially similar facts without the passage of a concurrent resolution by the General Assembly expressly approving the new disaster emergency declaration. A proposed constitutional amendment must pass the General Assembly during two separate, consecutive legislative sessions before it is presented to the voters for approval. [Passed: 33-17.](#)



[Senate Bill 1216](#) (Langerholc) would amend the Public School Code of 1949 to provide the Secretary of Education with the authority to address disruptions to teacher training and certification caused by the COVID-19 disaster emergency. The provisions of the legislation would remain in effect until June 30, 2021. The Secretary of Education would be authorized to:

- Waive the requirement for an undergraduate student to satisfactorily complete the assessment of basic skills for progression in teacher education programs during the 2020-2021 school year;
- Issue a temporary professional certificate to an educator who has completed a preparation program and meets all of the requirements for certification except the completion of assessments because the assessments were cancelled or could not be scheduled;
- Issue an exceptional case permit for a professional employee who is unable to complete the assessment requirements for conversion from a Level I certificate to a Level II certificate because the assessments were cancelled or could not be scheduled;
- Issue a temporary certificate to an individual who is unable to complete the appropriate subject matter test for areas other than health and physical education, cooperative education, all special education areas and additional areas as may be determined by the Department of Education when the relevant assessment has been canceled or could not be scheduled; and
- Provide for the deadline for a paraprofessional to satisfy staff development activity hour requirements to be extended until June 30, 2021. **Passed: 50-0.**

[Senate Bill 1235](#) (Street) would authorize the Department of General Services (DGS), with the concurrence of the Department of Environmental Protection (DEP), to lease approximately 10.80126 acres of land within the Delaware Riverbed to L-A Battery, QOZ, LLC for 99 years. The purpose of the lease would be for the development of residential, office, commercial, condominium, hotel, marina or other uses consistent with public and maritime uses and amenities. No portion of the leased premises could be used for a licensed gaming facility.

The lease agreement would have to contain the following requirements for free public access and parking:

- A minimum of 10 public parking spaces near the water edge with signage;
- Public riverfront walkways, including promenades or trails along the entire water edge;
- A free public park area along the public walkway near the water; and
- Public access to the Delaware River.

If the licensee wishes to modify the public access or parking requirements, it would have to obtain written approval from DEP and DGS. Costs and fees incidental to the lease would be

borne by the lessee. If the lease is not fully executed within 36 months, the authority to execute the lease would be void. **Passed: 46-4.**

[Senate Resolution 347](#) (Corman) extends the temporary emergency Rules of the Senate until September 30, 2020 or ten days following the expiration of the emergency declaration, whichever is earlier. **Adopted: 50-0.**

[House Bill 196](#) (Diamond) proposes an amendment to the Pennsylvania Constitution to organize the Judiciary into representative districts. Specifically, the measure proposes to amend Article V (The Judiciary) to provide that justices of the Supreme Court and judges of the Superior Court and Commonwealth Court would be elected from judicial districts to provide every resident of the Commonwealth with approximately equal representation on a court. The General Assembly would, by law, establish:

- The judicial districts from which justices of the Supreme Court and the judges of the Superior Court and the Commonwealth Court are elected;
- A transition to an appellate court judiciary elected from judicial districts;
- The effect of judicial districts upon eligibility to seek retention election;
- The order in which judicial districts would elect justices of the Supreme Court and judges of the Superior Court and the Commonwealth Court; and
- The decennial realignment of the appellate judicial districts based on the federal decennial census, beginning in 2021 and occurring each ten years thereafter.

A proposed constitutional amendment must pass the General Assembly during two separate, consecutive legislative sessions before it is presented to the voters for approval.

**Passed: 26-24.**

[House Bill 2463](#) (Grove) would amend the Administrative Code of 1929 to further provide for access to public records during a disaster declaration. Among other provisions, the legislation would:

- Prohibit the Governor from directing a Commonwealth agency to ignore requests for records or to suspend its process to answer a request for records during a disaster declaration;
- Permit a Commonwealth agency to suspend the process by which it responds to a request for records during a disaster declaration only as provided under section 902(a) of the Right-to-Know Law. If an extension of time is necessary, the agency would have to comply with section 902(b) of the law;
- Require the Office of Open Records, within five days of the effective date of the legislation, to publish guidelines specifying how a Commonwealth agency is required to



respond to a request for records made during a disaster declaration when the Governor has ordered the Commonwealth agency to close its physical location;

- Authorize a requester to bring a petition before the Commonwealth Court to compel an agency to respond to a request if it fails to respond to a request for records during a disaster declaration,
- Allow a requester to appeal a denial to the Office of Open Records or judicial, legislative or other appeals officer designated under section 503(d) of the Right-to-Know Law if a Commonwealth agency denies a request for records after being ordered to respond by the Commonwealth Court;
- Clarify that a Commonwealth agency could only deny a request for records during a disaster declaration for reasons authorized under the Right-to-Know Law. A Commonwealth agency could not deny a request for records during a disaster declaration for a reason specified under section 506(b)(1)(i) of the Right-to-Know Law (when timely access is not possible due to fire, flood or other disaster); and
- Provide that the following, subject to Section 708 of the Right-to-Know Law, would be considered public records during a disaster declaration:
  - Data used by a Commonwealth agency for any rules, policies or actions taken by the Commonwealth agency in relation to the disaster declaration;
  - The process by which a Commonwealth agency determines how the Commonwealth agency will collect the data used by the Commonwealth agency for any rules, policies or actions taken by the Commonwealth agency in relation to a disaster declaration; and
  - Any quantitative or predictive models based on data collected by a Commonwealth agency and used by the agency for any rules, policies or actions taken by the Commonwealth agency in relation to a disaster declaration.

Passed: 50-0.

(2020-088)