

WEEKLY SESSION NOTES

SENATE REPUBLICAN POLICY COMMITTEE – DAVID G. ARGALL, CHAIRMAN

Monday, November 16, 2020

[Senate Bill 1350](#) (Browne) would create the Supplement to the General Appropriation Act of 2020 to provide federal COVID-19 appropriations in the amount of \$1,196,983,000 from the General Fund and \$7,500,000 from the Tobacco Settlement Fund for the current fiscal year. The appropriations would be a supplemental appropriation and would be in addition to the appropriations contained in the General Appropriation Act of 2020. The COVID-19 funds being appropriated in this bill are federal funds being distributed to the Commonwealth for purposes of supplementing current and prior fiscal year appropriations.

The measure would provide for a \$6 million reduction in state funds appropriated to the Department of Education for Pupil Transportation based upon a revised estimate of program costs made by the Department. Section 6105 of the legislation (relating to utilization of emergency federal funds) would impose a limitation on the use of these funds. Under the provisions of the bill, federal funds available for costs and damages resulting from natural disasters and civil disobedience, which typically would be paid into and appropriated out of the General Fund to departments, boards, commissions or agencies designated by the Governor, could not exceed \$50 million for the current fiscal year. The limitation would not apply to federal emergency unemployment compensation funds or federal highway and transit funds. Supplemental appropriations for the prior fiscal year total \$1,265,748,000. The act would be retroactive to July 1, 2020. **Passed: 39-11.** (*House Bill 1350 was amended in the House on Thursday. The Senate concurred in these amendments on Friday.*)

Executive Session

Jennifer R. Storm – Victim Advocate. **Failed: 18-32.**

Nominations to Various Boards and Commissions. **Confirmed: 49-0.**

Tuesday, November 17, 2020

[Senate Bill 790](#) (Scarnati) would create the Conventional Oil and Gas Wells Act to establish a separate legal framework for conventional oil and gas operations. The measure would address areas such as permitting and siting requirements, opportunity for surface owner site objections, protection of groundwater and water sources, site restoration requirements, well plugging requirements, and enforcement and funding. Among other provisions, the legislation would:

- Streamline the process for amending and adopting new regulations for the conventional oil and gas industry by removing the requirement that the Department of Environmental Protection (DEP) review regulations with the Technical Advisory Board. Under the changes, proposed regulations would be reviewed with the Grade Crude Development Advisory Board and then sent to the Environmental Hearing Board for consideration;

- Provide for well plugging, with the owner or operator required to plug a well they are abandoning unless DEP has granted inactive status or the well has been approved by DEP as an orphan well. Persons who voluntarily plug an orphan well could apply to the Commonwealth Finance Authority for a payment per well plugged from the Marcellus Legacy Fund;
- Streamline the provisions for obtaining Good Samaritan Protection for plugging orphaned and abandoned wells;
- Provide for two types of violations: a general violation and a willful violation. The Environmental Hearing Board could assess a civil penalty regardless of whether the violation was willful. A civil penalty could not exceed \$25,000 plus \$1,000 for each day during which the violation continues. Penalties would be deposited into the Orphan Well Plugging Fund;
- Appropriate \$5 million from the General Fund to DEP to meet the obligations required by the act. The Environmental Quality Board would be required to establish a permit application fee structure to support the administration of the act in addition to the appropriation from the General Fund. All permit fees collected would be appropriated to DEP to carry out the provisions of the act. A surcharge fee would be added to the permit fee for new wells. The surcharge would be paid into the Abandoned Well Plugging Fund; and
- Provide that the provisions of Title 58 (Oil and Gas) would be repealed insofar as they relate to conventional wells. In addition, all acts and parts of acts would be repealed insofar as they are inconsistent with the proposed act. All conventional oil and gas well activities already initiated would continue and remain in full force and effect and could be completed under the proposed act. [Concurrence in House Amendments: 29-19.](#)

[Senate Bill 792](#) (Brooks) would amend the Automobile Lemon Law to include motorcycles. Dual sport motorcycles would not be included. Under the provisions of the legislation, a manufacturer of a motorcycle would be required to repair or correct a nonconformity which substantially impairs the use, value or safety of the motorcycle, at no cost to the purchaser for a period of one year following the actual delivery of the motorcycle to the purchaser or during the term of the warranty, whichever occurs first. All attempts to correct a nonconformity would have to be made by the same manufacturer's authorized service facility or the purchaser would have to provide a complete set of repair records on the nonconformity to a manufacturer's authorized service and repair facility that has not previously attempted to repair the nonconformity in order for the law to apply. The manufacturer's authorized service and repair facility that performed the repairs would be required to provide an affidavit that the nonconformity had been subject to repair three times. [Passed: 48-0.](#)

[House Bill 30](#) (Petarca) would amend Title 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes to allow an applicant for a two-year vehicle registration to

make a contribution of \$6 to the Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund on the Department of Transportation's website. **Passed: 48-0.**

House Bill 1617 (Staats) would amend the Liquor Code to allow for certain hotel liquor licenses to be converted to restaurant liquor licenses, to loosen the restrictions on interlocking businesses and to further amend the definition of fermented fruit beverage. Specifically, the definitions of alcoholic cider, fermented fruit beverage, and mead would be amended to allow the products to be sold as malt or brewed beverages. The bill would permit the label, product packaging and marketing materials for alcoholic cider, fermented fruit beverage and mead to refer to the product as wine-based, a wine product or in a similar manner with the beverage still treated as a malt or brewed beverage if the product is registered with the Liquor Control Board as a malt or brewed beverage. No product sold in any Pennsylvania Liquor Store after January 1, 2018 could be designated as a malt or brewed beverage.

The legislation would allow a person who has an ownership interest in a brewery license to be employed by an entity that holds a hotel, restaurant, eating place or club license if the person has no job duties or responsibilities on, or connected with, the licensed premises of the hotel, restaurant, eating place or club in any capacity. The bill would also allow any hotel liquor license that was approved before September 1, 1949, and that applied for an exemption to the bedroom requirement before January 1, 2019, to be permitted to convert the hotel liquor license to a restaurant liquor license without regard to quota restrictions during the two-year period following the effective date of the bill. Upon application to the Liquor Control Board, an eligible hotel liquor licensee would have to pay a fee of \$30,000 to the Board. If a converted license is transferred within five years after the conversion date, the applicant would be subject to a fee of \$30,000 or 25 percent of the transactional cost, whichever is greater, which would be paid by the seller of the license. Certain hotel liquor licenses would be excluded from conversion as outlined in the bill. **Passed: 42-6.**

House Bill 2065 (White) would amend Title 74 (Transportation) of the Pennsylvania Consolidated Statutes to expand the use of public-private partnerships (P3). The bill would broaden the definitions of "private entity" and "public entity" to include a county, and cities of the first and second class and authorize a P3 transportation agreement to provide for support for the advancement of alternative fuel vehicles and highly automated vehicles. Rest areas, welcome centers, weigh stations, and unmanned aerial systems would be also added to the definition of "transportation facility" to make them eligible transportation P3 projects. An additional provision would require the Public-Private Transportation Partnership Board to provide an annual report to the General Assembly with the information delineated in the bill. **Passed: 43-5.**

State System of Higher Education Property Request No.1 of 2020 (Resolution A).
Adopted: 48-0.

State System of Higher Education Property Request No.2 of 2020 (Resolution A).
Adopted: 48-0.

Wednesday, November 18, 2020

[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.

The bill would also add a new section pertaining to the Keystone Exams. Under the new section, for the 2019-2020 school year and any subsequent school year when the federal government waives testing and accountability requirements related to the Every Student Succeeds Act, any student who has completed a course in an academic content area associated with the Keystone Exam would not have to take the associated Keystone Exam at the end of the course and would be deemed proficient if the student successfully completes the locally established, grade-based requirements for the academic content areas associated with each Keystone Exam (since 2012-2013 Algebra I, Biology and Literature).

An additional provision would require a school district that provided nonpublic school transportation during the 2019-2020 school year to provide the service during the 2020-2021 school year during the COVID-19 disaster emergency when nonpublic schools are in session (regardless of whether the district schools are remote). Further, as a result of the COVID-19 disaster emergency, a school entity would receive a pupil transportation subsidy payment equal to the greater of: (1) the amount calculated for reimbursement or (2) the amount allocated to the school entity for the prior school year. To receive a subsidy amount equal to the prior school year, the school entity would have to pay the school bus transportation contractor the amount they would have received if they had not been affected by the COVID-19 disaster emergency

minus any variable costs. The school bus contractor would have to certify the variable costs to the school district. Finally, the Department of Education would be directed to develop and publish guidelines on variable costs in consultation with the Pennsylvania School Boards Association and the Pennsylvania School Bus Association. [Concurrence in House Amendments, as Amended: 49-0.](#)

[House Bill 862](#) (Barrar) would create the Physical Therapy Licensure Compact Act to grant the Governor the authority to enter into a physical therapy compact with other states to facilitate the interstate practice of physical therapy. The compact regulates the practice of a physical therapist or physical therapy assistant working in another compact member state under the other state's laws and rules. The compact would be effective when the Governor executes the compact on behalf of the Commonwealth and files a verified copy with the Secretary of the Commonwealth. The Physical Therapy Compact Commission is the national administrative body whose membership consists of all states that have enacted the compact and are responsible for the oversight of the compact. The commission is responsible for establishing bylaws, maintaining financial records, promulgating uniform rules to implement and administer the compact, and bringing and prosecuting legal proceedings. [Passed: 49-0.](#)

[House Bill 1342](#) (Brown) would amend the Public School Code to add a new section to provide for vision screenings for students. Prior to a child's admission to school for the first time, the parents and guardians of the child would be required to present to the school certification that the child has passed or failed a vision screening conducted by a primary care provider, vision screener, ophthalmologist or optometrist within the previous 12 months. The Advisory Health Board would be required to promulgate regulations to establish vision screening standards. Schools would be required to perform student vision screenings every year through fifth grade and at least every other year through twelfth grade. The screenings would have to be performed by school health personnel or properly trained screeners. If a child fails a screening, the parent or guardian of the child would be notified and the child would have to have a comprehensive eye examination within 120 days or before the start of the next school year, whichever comes first. No child could be denied admission or excluded from attending school if the comprehensive eye exam is not performed. A school could not be required to provide a comprehensive eye exam or be held financially responsible for the treatment of a child who fails a vision screening. [Passed: 49-0.](#)

[House Bill 1747](#) (Dowling) would amend Title 18 (Crimes and Offenses) and Title 35 (Health and Safety) of the Pennsylvania Consolidated Statutes to remove the current prohibition in the Crimes Code which forbids the carrying of a firearm during a declaration of emergency unless the individual is defending his or her life or property or unless the individual is licensed to carry a firearm. In addition, Section 7301 of Title 35 would be amended to eliminate the Governor's power to suspend or limit the sale of firearms during a declared emergency. [Passed: 29-20.](#)

[House Bill 1808](#) (Mackenzie) would amend the Solid Waste Management Act to add definitions and update certain provisions related to the recycling of plastics. Under the changes, post-use polymers converted through "advanced recycling" as defined in the bill would not be considered municipal waste under the act and would be defined as post-use plastic derived from residential, municipal, or commercial sources that would not otherwise be recycled. Further, post-use

polymers that are converted using advanced recycling would not be considered solid waste, municipal waste or residual waste. The conversion of post-use polymers through advanced recycling and the by-products of advanced recycling conversion would have to comply with all applicable rules and regulations of the U.S. Environmental Protection Agency and the Department of Environmental Protection. **Passed: 30-19.**

House Bill 2233 (Greiner) would amend Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes to allow political subdivisions and volunteer service organizations to share a bulk storage tank for tax-free motor fuels under the conditions outlined in the bill. An exempt entity could not be a distributor or sell or deliver the fuel to any other person or exempt entity. The entity would have to use the fuel for its own official purposes and only purchase and take delivery of the fuel from a distributor. Eligible entities would be required to cooperate with the Pennsylvania Department of Revenue during an investigation or audit related to the use, sale or delivery of the fuel. Failure to adhere to the use, sale, and delivery provisions prescribed in the bill would result in the exempt entities paying a determined amount of applicable tax on the fuel and an additional penalty equal to 100 percent of the determined tax, in addition to any other penalty, summary offense, or misdemeanor applicable under the statute. Additional changes would allow the Department of Revenue to disclose records to appropriate enforcement authorities for 1) investigation if incorrect information is discovered on a storage tank or 2) for a violation that could pose a threat to public safety. **Passed: 49-0.**

House Bill 2440 (Kortz) would create the Hunting, Firearm and Ammunition Life-Sustaining Business Act to designate shooting ranges, sportsman clubs, hunting facilities and firearm and ammunition product manufacturers, retailers, importers and distributors as life-sustaining businesses. **Passed: 29-20.**

Thursday, November 19, 2020

Senate Resolution 396 (Tartaglione) recognizes the essential work performed by individuals with disabilities during the 2020 pandemic and thanks them for their continued efforts through the remainder of the pandemic. **Adopted by Voice Vote.**

Senate Resolution 408 (Farnese) designates the week of November 16 through 20, 2020 as “Pennsylvania Education for Students Experiencing Homelessness Awareness Week” and November 20, 2020 as “Red Shirt Day.” **Adopted by Voice Vote.**

House Bill 21 (Helm) would amend the Real Estate Appraisers Certification Act to require the licensure of home inspectors by the State Board of Certified Real Estate Appraisers. The Board would be increased from 11 to 17 members with the addition of two more certified real estate appraisers, two certified Pennsylvania evaluators and two licensed home inspectors. Individuals who meet the qualifications outlined in the legislation would be eligible for licensure. Within two years of enactment, the Board could issue a license to existing home inspector practitioners who have been in active continuous practice for at least five years immediately preceding the effective date or who have performed or participated in 100 home inspections and have passed a recognized home inspection examination. The Board could issue a home inspector license without examination to an applicant holding a home inspector license in another state who meets

certain requirements outlined in the bill. A licensed home inspector would be required to maintain liability insurance. A license would be subject to biennial renewal which would require the licensee to complete 32 hours of continuing education. A person could register as a home inspector-in-training to obtain the required experience if the individual has met the educational requirements as established by the Board. A home inspector-in-training would have to maintain a record of the completed home inspections including the signature of the supervising inspector.

The performance of home inspections would be subject to the state Unfair Trade Practices and Consumer Protection Law and a home inspector could not:

- Perform, for an additional fee, any repairs within 12 months of the home inspection, except for remediation for radon or wood-destroying insects;
- Inspect for a fee a home if the inspector has a financial interest;
- Offer or deliver a commission, referral fee or kickback; or
- Provide a home inspection if the fee is contingent upon the conclusions in the report, preestablished or prescribed findings or the close of a transaction.

A home inspection report could only be delivered to the client. However, the property owner would be able to request and receive a copy of the report from the client without charge. A home inspector would have to disclose immediate threats to health or safety to the property owner and occupants of the property at the conclusion of the home inspection. Final regulations would have to be promulgated within 18 months. **Passed: 40-9.**

House Bill 64 (Readshaw) would amend Act 48 of 1993 to allow boards and commissions under the Bureau of Professional and Occupational Affairs to provide for the carryover of any excess continuing education credits for licensees. The credits could only be carried over for one biennial renewal period. **Passed: 49-0.**

House Bill 777 (Klunk) would amend the Local Option Small Games of Chance Act to allow a club licensee to use proceeds directed for public interest purposes for the club's own operating expenses for a period of one year after the termination of either the March 6, 2020 proclamation of disaster emergency or any declaration of disaster emergency related to COVID-19. If the club uses proceeds for operating expenses during this time, the information would have to be included in its annual report. **Passed: 49-0.**

House Bill 916 (Stephens) would amend Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes to establish "Deana's Law" by increasing penalties for certain driving under the influence (DUI) offenders, require the courts to evaluate repeat DUI offenders in a substance monitoring program and provide for other DUI and license suspension changes. The definitions of "continuous alcohol monitoring device," "remote breath testing device" and "substance monitoring program" would be added.

Among other changes, the bill would amend:

- Section 1532, relating to suspension of operating privilege, to require the Department of Transportation to restore the driving privileges of individuals serving suspensions for violations that were eliminated under Act 95 of 2018, which removed mandatory license suspensions prospectively for state/federal drug crimes and crimes related to minors and alcohol/tobacco;
- Section 1543, relating to driving while operating privilege is suspended or revoked, to update the provisions to align with Act 30 of 2017 and a United States Supreme Court opinion that held that states cannot make refusing a blood test a criminal offense. An individual can only be convicted under this section if he or she refuses chemical testing of blood pursuant to a valid search warrant, court order or another basis permissible by the United States or Pennsylvania Constitutions;
- Section 1556, relating to ignition interlock limited license, to require the installation of an ignition interlock device in any motor vehicle to be operated by an individual following approval by the Department for an ignition interlock limited license. Proof of installation would have to be provided to the Department by the ignition interlock device vendor;
- Section 3803, relating to grading, to increase the grading from a misdemeanor of the first degree to a felony of the third degree for an individual who commits a third DUI within 10 years with a BAC of 0.10 percent up to 0.16 percent. An additional change would increase the grading from a felony of the third degree to a felony of the second degree for an individual who commits a fourth or subsequent DUI within 10 years with a BAC of 0.16 percent or higher, if the individual refuses a chemical or breath test of the individual or if the DUI involves a controlled substance;
- Section 3804, relating to penalties, to require that a sentence imposed upon an individual for a third or subsequent offense would have to be served consecutively to any other sentence and to any other sentence being imposed by the court, except for those individuals with an offense that must merge as a matter of law. The Pennsylvania Commission on Sentencing would also be required to provide a sentencing enhancement for certain offenses;
- Section 3805, relating to ignition interlock, to require an individual with three or more DUI offenses within 10 years, to have an ignition interlock for two years instead of the current one year. If an individual has an ignition interlock violation during the final two months of required use, the interlock vendor would be required to notify the Department and the Department would have to extend the required use of the interlock until no violations have occurred in a 60-day period;
- Section 3807, relating to accelerated rehabilitative disposition (ARD), to mandate that an attorney could not submit a charge for ARD unless certain conditions apply as outlined in the bill;

- Section 3814, relating to drug and alcohol assessments, to allow for the use of medication-assisted treatment in conjunction with behavioral therapies if the treatment is clinically appropriate, as part of the individual's assessment if they are convicted or plead guilty or no contest to a violation of Section 3802;
- Section 3815, relating to mandatory sentencing, to allow the court to order an individual to participate in a substance monitoring program under Section 3818 if the individual has one or more prior offenses, as a condition of parole or probation; and
- Section 3818, relating to the substance monitoring program, to require the court to order an evaluation of an individual's entry into a substance monitoring program under certain circumstances outlined in the bill. The individual in the substance monitoring program would have to have one or both of the following as determined by the court: 1) a continuous alcohol monitoring device, remote breath testing or any other similar alcohol monitoring technology or device, other than an ignition interlock system, as determined by the court; and/or 2) random drug testing or any other controlled substance monitoring technology or device, as determined by the court. Individuals participating in the substance monitoring program would be required to pay for the costs associated with their participation. An individual participating in the program would be prohibited from: 1) imbibing alcohol, using controlled substances or both, as determined by the court; 2) tampering with any device or technology associated with the program; and 3) failing to comply with any other requirement ordered by the court as part of the substance monitoring program.

The measure would also add a new Subchapter E to require the Department to establish the Relief from Administrative Suspension Program for a 12-month period. The Department could restore the operating privilege of eligible individuals with suspensions imposed under the provisions outlined in the legislation. The Department would have to review the applications filed for relief and make a determination as to the applicant's eligibility within 30 days of receipt. Individuals who seek to participate in the Relief from Administrative Suspension Program would have to respond to the court pursuant to the instructions in a restoration requirements letter to be provided by the Department and to pay 100 percent of the original penalty and any other court-ordered obligations imposed under the applicable laws of the Commonwealth. Revenue received by the court under the Relief from Administrative Suspension Program would have to be distributed in accordance with the law. Participation in the program would be conditioned on an individual's agreement not to protest or pursue an administrative or judicial proceeding against the Department for the sanctions it imposed on the individual's operating privilege. **Passed: 46-3.**

House Bill 942 (Grove) would amend the Human Services Code to provide for the membership of the Pharmaceutical and Therapeutics Committee. Under the provisions of the legislation, the Committee would include two individuals representing community pharmacists appointed by the Secretary of the Department of Human Services and physicians, pharmacists and other members appointed by the Secretary as needed to develop and maintain a preferred drug list. **Passed: 49-0.**

[House Bill 1534](#) (Matzie) would amend the Unfair Trade Practices and Consumer Protection Law to include anti-pyramid scheme provisions. The bill would define a "pyramid promotional scheme" as any plan or operation by which a person gives consideration for the opportunity to receive compensation that is derived primarily from the introduction of other persons into the plan or operation rather than from the sale and consumption of goods or services. Under the bill, a direct selling organization that operates an inventory repurchase program and does not encourage inventory loading would not be classified as a pyramid promotional scheme. "Inventory loading" would be defined as a requirement by a plan or operation that its independent salesperson purchase inventory in an amount that exceeds the amount that the salesperson can expect to resell for ultimate consumption or to use or consume in a reasonable time period, or both. A "bona fide inventory repurchase program" would be defined as a program by which an entity repurchases from a salesperson current and marketable inventory in the possession of the salesperson upon request, and upon commercially reasonable terms when the salesperson's business relationship is terminated. **Passed: 49-0.**

[House Bill 1737](#) (Gleim) would amend Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statute to extend to land banks the same environmental liability protection that is presently granted to economic development agencies when dealing with brownfields and other contaminated sites in order to facilitate their return to productive use. In addition, the legislation would repeal the Economic Development Agency, Fiduciary and Lender Environmental Liability Protection Act (Act 3 of 1995) and place it into a new subchapter as a continuation of the prior act. Specifically, three subchapters would be added under Chapter 83 which pertains to immunities. Subchapter F.2 would be the Economic Development Agency, Fiduciary and Lender Environmental Liability Protection with land banks added.

A new Subchapter F.3 pertaining to Agritourism Activity Protection would extend civil liability protection to persons who offer agritourism activities on a farm. ("Agritourism" would be defined as a farm-related tourism or farm-related entertainment activity). The agritourism activity provider would have to post specific warning signs and have a signed, written agreement with a participant that they have acknowledged the risk of participation in an agritourism activity. An acknowledgment could be printed on the back of a ticket needed to participate in the activity. A warning notice posted on a sign would have to be at least three feet by two feet in dimension and include the statement outlined in the legislation. Protection against civil liability would not apply if the individual or business is grossly negligent or intentionally causes injury or damages to a participant or commits an action or inaction that constitutes criminal conduct and causes the participant injury.

The new Subchapter F.4 would provide for COVID-19-related immunity for schools; childcare facilities; manufacturers, distributors, labelers, donors, and users of personal protective equipment; businesses; and governmental service providers. Under the subchapter, "business or government services" would be defined as a lawful activity conducted by a trade, business, nonprofit organization or local governmental unit that is permitted by the terms of the COVID-19 disaster proclamation to hold itself out as open to members of the public. The subchapter would increase the burden of proof in civil cases from a preponderance of the evidence to clear and convincing evidence of gross negligence, recklessness, willful misconduct or intentional

infliction of harm. The subchapter would further provide protection by waiving liability if the individual or entity was attempting to comply with a public health directive. [Passed: 29-20.](#)

[House Bill 1962](#) (Keefer) would amend Title 24 (Education) and Title 71 (State Government) of the Pennsylvania Consolidated Statutes to provide for annual stress testing of the Public School Employees' Retirement System (PSERS) and State Employees' Retirement System (SERS). It would also increase training requirements for board members. Under the legislation, the stress tests would include a scenario analysis, simulation analysis and sensitivity analysis as defined in the bill. PSERS would be required to have its actuary begin stress testing for fiscal years beginning after June 30, 2020, and SERS would be required to have its actuary begin stress testing for calendar years beginning after December 31, 2019. The boards would submit the results of the annual stress test to the Governor, the General Assembly, and the Independent Fiscal Office (IFO) no later than January 1 of each year for PSERS and July 1 for SERS. The IFO would be required to produce a report summarizing the results of the stress tests, including a calculation of the ratio of projected employer contributions to projected state revenues by March 1 of each year for PSERS and September 1 for SERS.

The bill would also direct the PSERS and SERS boards to establish an asset liability contingency operating committee as a function within the investment committee, which would be charged with evaluating the risk associated with the systems' assets and liabilities. In order to be appointed to the audit/compliance committee as a voting member, a member of the PSERS board or SERS board would have to complete at least 16 hours of training in risk assessments, internal controls and auditing standards inclusive of the hours indicated for board training within 90 days of appointment. An additional provision would require the PSERS board and SERS board to provide for an internal control audit of their respective systems and plans at least every five years. [Passed: 49-0.](#)

[House Bill 2293](#) (Quinn) would amend Title 66 (Public Utilities) of the Pennsylvania Consolidated Statutes to require a public utility that delivers natural gas liquids through a high consequence area, as defined in the legislation, to make its emergency response plans available upon written request to the secretary of the Public Utility Commission, the Pennsylvania Emergency Management Agency and the emergency management director of each county where the high consequence area is located. If the emergency response plans contain confidential security information subject to the Public Utility Confidential Security Information Disclosure Protection Act, each reviewer of the plan would have to comply with all Public Utility Confidential Security Information Disclosure Protection Act requirements and enter into a notarized agreement with the public utility for the purpose of maintaining the confidentiality requirements. A copy of the proposed agreement would have to be provided to the Commission before making the emergency response plan available. A public utility that fails to comply could be subject to enforcement action by the Commission. [Passed: 49-0.](#)

Friday, November 20, 2020

[Senate Bill 835](#) (Langerholc) would create the Unserved High-Speed Broadband Funding Program to be administered by the Commonwealth Financing Agency. Under the program, nongovernmental entities with the technical, managerial and financial expertise to design, build

and operate a high-speed broadband service infrastructure would be eligible to apply for grants for the deployment of high-speed broadband service infrastructure. The nongovernmental entity would have to commit to using a minimum of 25 percent of its private capital to finance a proposed project. Other government grants, loans or subsidies could not count toward the capital investment requirement. Projects that result in “overbuild” or are proposed to be managed or operated by a government entity would be ineligible for funds. Overbuild would be defined as the deployment of high-speed broadband service infrastructure in an area that is not unserved.

The Commonwealth Financing Authority Board would be required to adopt implementation guidelines with provisions for the submission, review and approval of applications, the awarding of grants and the administration of projects funded under the program. The guidelines would have to be implemented within 180 days of the effective date of the legislation. The Authority would have to make the applications received available for review on its website within five business days of the close of the application period. Within 45 days, a broadband service provider could challenge an application on the grounds it would result in overbuild. In reviewing the applications and challenges, the Authority would have to ensure that the grants are used in unserved areas. All grant recipients would have to maintain full and accurate records for the project and submit a final report of the project to the Authority.

The bill would appropriate \$5 million from the General Fund for the 2020-21 fiscal year for purposes of the program. An additional provision would prohibit the Department of Revenue from awarding a Mobile Telecommunications Broadband Investment Tax Credit after June 30, 2020 and repeal certain sections of the Tax Reform Code as they pertain to the tax credit.

[Concurrence in House Amendments: 49-0.](#)

[Senate Bill 1193](#) (Browne) would consolidate the Sheriff and Deputy Sheriff Education and Training Act into Title 44 (Law and Justice) of the Pennsylvania Consolidated Statutes and increase certain surcharges. The legislation would also direct the Sheriff and Deputy Sheriff Education and Training Board to require domestic violence training for sheriffs and deputy sheriffs, including assessing the lethality risk of domestic violence incidents.

Additional provisions would increase the surcharge for service required for any complaint, summons, writ or other legal paper required to be served or posted by the sheriff from the current \$10.00 to the following:

- Beginning January 1, 2021 through December 31, 2021, \$16.00;
- Beginning January 1, 2022 through December 31, 2022, \$18.00; and
- Beginning January 1, 2023 and thereafter, \$20.00.

In counties of the first and second class, the surcharges collected by the prothonotary for each defendant named in a document filed to commence an action would be increased from the current \$11.00 to the following:

- Beginning January 1, 2021 through December 31, 2021, \$17.00;
- Beginning January 1, 2022 through December 31, 2022, \$19.00; and

- Beginning January 1, 2023 and thereafter, \$21.00. [Concurrence in House Amendments: 49-0.](#)

[Senate Bill 1214](#) (Argall) would authorize:

- The Department of General Services (DGS), with the approval of the Department of Corrections, to convey approximately 23.74 acres of land at the State Correctional Institution Mahanoy, in Mahanoy Township, Schuylkill County to the Schuylkill County Municipal Authority for a permanent easement at a purchase price of \$1.00. As a condition of the sale, a restrictive covenant would require the easement to be utilized only for establishing, utilizing, and maintaining water wells and appurtenances for potable water production and distribution for the benefit of the Schuylkill County Municipal Authority's customers. If the easement is not utilized for these purposes, it would automatically extinguish. Costs and fees incidental to the conveyance would be borne by the grantee. In the event that the parties have not entered into an easement agreement within two years of the effective date of the legislation, the authorization for the conveyance would expire;
- DGS, with the approval of the Governor and the Department of Military and Veterans Affairs (DMVA), to convey through a competitive bid process approximately 13.63 acres of land near the Hollidaysburg Veterans' Home in Allegheny Township, Blair County. The Secretary of General Services could impose any covenants, conditions or restrictions on the property at settlement as determined to be in the best interests of the Commonwealth. Proceeds of the sale would be deposited into the General Fund;
- DGS, with the approval of the Governor and the DMVA, to convey through a competitive bid process approximately 111.36 acres of land near the Hollidaysburg Veterans' Home in Allegheny Township, Blair County. The Secretary of General Services could impose any covenants, conditions or restrictions on the property at settlement as determined to be in the best interests of the Commonwealth. Proceeds of the sale would be deposited into the General Fund;
- DGS, with the approval of the Governor and the Department of Environmental Protection (DEP), to take action with respect to the Commonwealth's interest in Penn's Landing to further development plans for the property, including conveying any land west of the bulkhead line to the City of Philadelphia and entering into a submerged lands lease with the City of Philadelphia for a term of 99 years, with a renewal option of 99 years, on terms acceptable to DGS;
- DGS, with the approval of the Governor and Pennsylvania Historical and Museum Commission (PHMC), to convey the historic Highlands Mansion and grounds on approximately 40.69 acres in Whitemarsh Township, Montgomery County to the Highlands Historical Society for \$1.00. The conveyance would be subject to the condition that a portion of the property to be conveyed, containing approximately 29 acres, would be encumbered by a conservation easement to be granted by the Highlands Historical Society to the Township of Whitemarsh, and that any funds

received by the Highlands Historical Society as consideration for the grant of the easement would be dedicated to the preservation of the approximately 12-acre portion of the property containing the Highlands Mansion. The portion of the property which includes the Highlands Mansion would be conveyed subject to historic preservation covenants determined by the PHMC, which could include a reversionary interest. No portion of the property conveyed could be used as a licensed gaming facility or it would revert to the Commonwealth. Costs and fees incidental to the conveyance would be borne by the grantee. In the event that the parties have not entered into an easement agreement within two years of the effective date of the legislation, the authorization for the conveyance would expire;

- DGS, with the approval of the Department of Human Services and the Governor, to convey 3.16 acres of land and improvements located on the grounds of the Warren State Hospital in Conewango Township, Warren County to Bollinger Enterprises, Inc., under an agreement of sale dated August 7, 2020. The conveyance could not be made until Bollinger Enterprises, Inc., has provided DGS with a final, unappealable subdivision plan approved in accordance with applicable law. No portion of the property conveyed could be used as a licensed gaming facility or it would revert to the Commonwealth. Costs and fees incidental to the conveyance would be borne by the grantee. In the event the conveyance is not executed in accordance with the agreement of sale, the property could be disposed of in accordance with Section 2405-A of the Administrative Code of 1929;
- 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, with a renewal option of 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 impose certain requirements for free public access and parking as outlined in the legislation. 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;
- DGS, with the approval of the Department of Transportation and the Governor, to convey approximately 5.186 acres of land and improvements located partially in the 6th Ward of the City of Washington and partially in South Strabane Township, Washington County, to the Washington Health System for \$1,150,000, subject to other terms and conditions as are to be set forth in an agreement of sale. Costs and fees incidental to the conveyance would be borne by the grantee. The proceeds from the sale would be deposited in the General Fund. If the conveyance is not completed within one year of the effective date of the legislation, the authorization for the transfer would expire and the property could be disposed of in accordance with Section 2405-A of the Administrative Code of 1929;
- DGS, to grant a permanent easement of approximately 1.78 acres of land on the grounds of the Muncy State Correctional Institution in Clinton Township, Lycoming County to

Harry E. Frey, Jr. and Jeffrey L. Frey for \$2,670 under terms and conditions to be established by an easement agreement. The agreement would have to contain a provision stating that the easement would be utilized solely for the purpose of ingress and egress to the Frey property and for no other purpose. If the easement is not used for ingress and egress, it would automatically extinguish. All costs and fees incidental to the conveyance would be borne by the grantee. Proceeds from the sale would be deposited in the General Fund. If the easement is not granted within two years of the effective date of the legislation, the authority provided in the legislation would expire;

- DGS, with the approval of the DMVA, to grant and convey, at a price to be determined through a competitive bid process, approximately 3.33 acres of land, buildings and improvements at the West Pittston Armory located in the Borough of West Pittston, Luzerne County. The conveyance would be made by special warranty deed. Proceeds from the sale would be deposited in the State Treasury Armory Fund; and
- DGS, with the approval of the Governor, to convey for \$1 two approximately 0.15-acre parcels of land in the Borough of West Chester, Chester County, to Human Services, Inc. Proceeds from the sale would be deposited into the General Fund

The legislation would also authorize the release of Project 70 restrictions from land owned by Glen Rock Borough, York County, so that the borough could sell the 25.617-acre parcel of land. Proceeds from the sale would be deposited into a special interest-bearing account established by the borough for the development of park and open space lands owned by the borough. None of the funds could be disbursed from the account until the borough prepares a plan and it is approved by the Department of Conservation and Natural Resources. Any funds remaining in the account five years after deposit would be paid to the state for deposit into the Project 70 Land Acquisition Sinking Fund. [Concurrence in House Amendments: 46-3.](#)

[Senate Bill 1350](#) (Browne) is the Supplement to the General Appropriation Act of 2020 (Act 1A of 2020). The final Fiscal Year 2020-21 state budget includes General Fund appropriations of \$32.1 billion and an additional \$3.4 billion in federal stimulus funds (\$2.1 billion Federal Medical Assistance Percentage (FMAP) and \$1.3 billion federal CARES Act funds). The interim budget passed in June made a full-year financial commitment for education at all levels and for a variety of food security programs. Funding for basic education, special education, early education and higher education was maintained in the final spending plan at the same level as Fiscal Year 2019-20. Among other highlights, the final budget:

- Reduces overall state spending in the final FY 2020-21 budget -- including federal stimulus funds -- by more than \$760 million (2.1 percent) from FY 2019-20;
- Includes \$531 million in transfers of excess, unallocated money from various special funds to the General Fund that will not impact services or cause program disruptions. Among these transfers is \$100 million from the Rainy Day Fund -- leaving a balance of \$243 million -- and \$185 million from the Workers' Compensation Security Fund;

- Provides \$200 million in school property tax relief to replace the revenue districts lost by the closure of Pennsylvania’s casinos during the pandemic shutdown; and
- Represents a 9.8 percent decrease across operating appropriations from the Governor’s initial request from February 2020. [Concurrence in House Amendments: 31-18.](#)

[House Bill 941](#) (Heffley) would amend the Human Services Code to increase transparency in pharmacy benefit manager (PBM) pricing practices in the Medicaid program. Specifically, the bill would define “pharmacy benefit management” as any of the following: the procurement of prescription drugs at a negotiated contracted rate; the administration or management of prescription drug benefits provided by a managed care organization (MCO); or the administration of pharmacy benefits such as operating a retail or mail-service pharmacy. The term “pharmacy benefit manager” would be defined as a business that performs pharmacy benefit management. The term would not include a business that holds a valid license from the Insurance Department to issue health insurance policies. A “pharmacy services administration organization” (PSAO) would be defined as an entity that negotiates or contracts with an MCO or PBM; negotiates payment rates, payments or audit terms; and collects or reconciles payments on behalf of its pharmacy members. The Department of Human Services would be authorized to conduct an audit or review of any entity, including a pharmacy, PBM, or PSAO that manages, processes, influences the payment for or dispenses pharmacy service to medical assistance recipients in the managed care delivery system. Information disclosed or produced by an entity to the Department would not be subject to the Right-to-Know Law.

Under the provisions of the legislation, a PBM or PSAO would be prohibited from doing the following:

- Requiring a pharmacist or pharmacy to participate in a network managed by the PBM or PSAO as a condition for the pharmacist or pharmacy to participate in another network managed by the same PBM or PSAO;
- Automatically enrolling or disenrolling a pharmacist or pharmacy without cause;
- Charging or retaining a differential between what is billed to an MCO as reimbursement for a pharmacy service and what is paid to pharmacies by the PBM or PSAO for the pharmacy service; and
- Charging pharmacy transmission fees unless the amount of the fee is disclosed and applied at the time of claim adjudication.

The bill would prohibit a contract between an MCO and a PBM from containing a confidentiality provision, which would prohibit the disclosure of information to the Department or restrict communication between the MCO and the Department. Entities would also be prohibited from retroactively denying or modifying an adjudicated claim for payment unless it is fraudulent or duplicative. Finally, the bill would direct the Legislative Budget and Finance Committee to conduct a study analyzing prescription drug pricing under the medical assistance managed care program. The Committee would be required to submit a report of its findings and

recommendations for legislative action to the General Assembly and the Department within 12 months of the receipt of data from the Department. [Concurrence in House Amendments to Senate Amendments: 49-0.](#)

[House Bill 2536](#) (James) would amend the Fiscal Code to provide for the FY 2020-2021 budget implementation language and other changes. Among other provisions, the legislation would:

- Authorize special tax anticipation notes to help local governments manage cash flow during the COVID-19 emergency. Under the provisions of this proposal, a local government unit would be authorized to obtain tax anticipation notes with a date of maturity at the conclusion of the governmental unit's 2022 fiscal year;
- Remove the provision directing any unexpended money remaining in the COVID-19 Response Restricted Account to be distributed through the County Block Grant and appropriate the money to the Department of Corrections for expenses incurred due to the COVID-19 public health emergency. An additional provision would extend the deadline for expending funds for the Regional Response Health Collaboration until December 30, 2020;
- Authorize the City of Harrisburg to levy a local services tax at a rate of \$156 for 10 years, at a rate of not more than \$104 for the next five years and not more than \$52 thereafter;
- Provide for the Department of Conservation and Natural Resources to develop a pilot program for the use of ATV's on Department lands. The Department could use a tag system and charge a fee for access to the pilot area. The fees would be deposited in the ATV Fund. The Department would have to report on the program to the General Assembly no later than December 31, 2023;
- Allow for the transfer of \$100 million from the Rainy Day Fund to the General Fund for use in FY 2020-21;
- Provide for the designation of a Keystone Opportunity Improvement Zone for the redevelopment of a former U.S. Steel brownfield site;
- Provide that any amount transferred from the Workers' Compensation Security Fund for the 2020-21 budget be repaid by July 1, 2028;
- Prohibit the Department of Environmental Protection from utilizing more than \$280,000 for the completion of its Bituminous Mine Subsidence and Land Conservation report. The amount would be adjusted for inflation based on the Consumer Price Index;
- Provide that if a person holds a medical marijuana permit to operate as a dispensary and the permit is surrendered, revoked or otherwise forfeited, the permit would be issued to the next, most-qualified applicant in the same region;

- Limit the display of flags flown over the Capitol or its grounds to the United States flag, the Pennsylvania flag or any flag authorized by Act 49 of 1970;
- Restrict displays to include only navigational, public health or public safety signage outside the Capitol Building, including alcoves, balconies and windows;
- Provide for \$3,970,600 to be used for grants to address PFAS contamination in Montgomery County;
- Prohibit Tier II alternative energy providers located outside the Commonwealth from receiving Tier II credits toward the Commonwealth's compliance with the Alternative Energy Portfolio Standards Act; and
- Provide annual agricultural fairs with the same amount of funding as in 2019, even if the fair was canceled in 2020 due to the COVID-19 public health emergency.
Passed: 33-16.

Executive Session

Nominations to Various Positions, including Richard W. Vague as the Secretary of Banking and Securities. **Confirmed: 49-0.**

(2020-122)