

LEG REG REVIEW

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LEG REG REVIEW is a periodic newsletter produced by PHILLIPS ASSOCIATES, a professional lobbying and consultant firm located near the State Capitol. It contains news on the legislative and regulatory scene in Pennsylvania that may be of interest to the Insurance and Business Communities. It is a free member benefit for those who are members of the Pennsylvania Association of Health Underwriters (PAHU) or Manufacturers Association of South Central PA (MASCOPA). Subscription information may be obtained by contacting PHILLIPS ASSOCIATES at 717/728-1217 FAX 717/728-1164 or e-mail to xenobun@aol.com. Please email jtrout2792@aol.com supplying both your name and e-mail address if you wish to be removed from this list.

THERE APPEARS TO BE A STATE BUDGET

Last week the General Assembly voted to pass a 28-plus billion dollar budget for the Commonwealth for the Fiscal Year beginning July 1. After some last-minute maneuvering on a Senate Republican move to fully establish a fiscal office controlled by the legislature to give them an independent way to access state spending and revenue numbers, a compromise was reached that puts that decision down the road. The votes were not unanimous with many Republicans voting against a budget that somewhat increases spending versus relying on actual revenue figures from the recently concluded fiscal year as a base. An unresolved issue is that the new Budget assumes that Congress will pass legislation giving \$850 million in additional Medicaid dollars to Pennsylvania. The new Budget also does not factor in the court decision against the Rendell Administration and the General Assembly re last year's depleting funds in the provider retention account, a fund that was supposed to help doctors with medical malpractice premiums as well as tapping into MCARE operating funds. The court ruled that the \$800 million action was illegal and that the money spent last year should be returned.

Some key developments are:

- *Increased education spending (a goal of Governor Rendell)*
- *Reduced state discretionary program spending (less than the drastic elimination of many state program in the last fiscal year)*
- *No new broad-based taxes*
- *(Apparently) No move to tap the funds from the Insurance Fraud Prevention Authority (IFPA), the special anti-fraud effort funded by industry assessments enacted in the mid-1990s*

On the revenue side for the first time in almost two years, the Department of Revenue reported that revenue for a month actually exceeded expectations. June 2010 numbers showed gains in most areas totaling \$58.3 million such as \$2.8 million more than expected coming from Personal Income Tax, \$4 million more than expected in liquor, beer, and cigarette taxes and \$7.7 million more than anticipated in Sales Taxes. Also reporting more than expected was the successful one-time tax amnesty program which netted \$234.3 million and gambling because of the expansion to table games and resulting new licensing fees (\$66 million). Coming in short were Corporate Tax revenues, \$25.5 million below estimate. The net for FY 2009-2010 was that revenue came in at \$27.6 billion, or \$1.176 billion short.

TORT ISSUE CENTERS ON AUTO INSURANCE

The Senate Appropriations Committee on July 1 moved House Bill 2246 (Tallman-R-York/Adams) and included a provision sought by the trial lawyers which allows attorneys to argue for damages before juries in automobile cases. The IA&B and the Insurance Federation vigorously opposed the amendment. This is the first piece of legislation affecting automobile insurance in years seeing significant legislative action.

LEGISLATIVE ACTIONS

Before the July 4 recess, there were a number of legislative developments:

- The Senate passed HB 1251 (Costa-D-Allegheny) which became a magnet for a number of insurance proposals including long-term care insurance customer eligibility triggers and appeals; extending PA's mini-COBRA term to possibly capture federal funds should Congress restore the 65% subsidy on COBRA premiums; several life/annuity provisions. It must go back to the House for concurrence.
- Producer licensing exams is the subject of House Bill 2490 (Johnson-D-Phila.). It tries to capture information by race on the numbers failing the life/accident/health exam in order to see if there is demographic bias in the testing. Along the way, the bill was amended re when this information would be collected and made giving this information a voluntary action.
- The House disagreed with a Senate watering down of restrictions on texting and cell phone use. House Bill 67 (Markosek-D-Westmoreland) will go to a House-Senate conference committee to try to resolve differences.

STATE PUSHES AHEAD WITH IMPLEMENTATION OF FEDERAL LAW

The Rendell Administration has moved ahead with implementation of the High Risk Pool provision of the Patient Protection Affordable Health Care Act without enabling legislation being passed by the General Assembly (SB 507 and HB 2514). The June 1 application to HHS was approved July 1 and the state will receive federal support. Amounts from the federal Government estimates vary from the more widely expected \$160 million to a more recent and modest figure near \$60 million. The maximum number of medically uninsurable Pennsylvanians in the new program would be about 5,000 with others possibly being added to a waiting list pending available money to pay for the program. The High Risk Pool is a temporary program which expires January 1, 2014 when medical underwriting and pre-existing conditions go away for all insurance plans per the new federal law.

The PA Association of Health Underwriters (PAHU) filed a complaint July 1 with the Attorney General against the Rendell Administration for ignoring the General Assembly's responsibility to create new programs and in bypassing Act 147's legal requirement that licensed insurance producers be used for marketing insurance. The PA Insurance Department is opting instead for an Internet application system with no agent involvement. The insurer getting the contract to run the program has not been announced.

MORE FEDERAL NEWS...

- *The National Flood Insurance Program (NFIP) has another lifeline, this time extending the program until September 30 with a retroactive date to June 1. On June 30 the US Senate approved a temporary reauthorization following an earlier House vote to do the same.*
- *The Financial Regulation package has a new name. The Conference Report on the 2,323 page bill is now the Dodd-Frank Wall Street Reform & Consumer Protection Act (Conference Report 111-517). Text and summary are available at www.thomas.gov. Among other things, it:*
 - *Establishes the Federal Insurance Office to identify regulatory gaps that could contribute to a crisis; monitors extent to which minorities might be underserved by not having sufficient access to insurance (beginning Section 501) Its authority does not extend to health insurance.*
 - *Enacting Surplus Lines market reforms by developing interstate standards for regulation of the Excess & Surplus Lines market (beginning Section 521)*
 - *Establishing the Bureau of Consumer Financial Protection (beginning in Section 1011)*

NOTE: Some media have reported that the bill takes regulation of equity indexed annuities (which pegs the value of annuities to overall performance of S&P or Dow Jones etc. versus particular investment vehicles) away from the SEC and gives it to state regulators. The actual text doing this in the bill was not found for this article.