

LEG REG REVIEW 2010, 20th Issue July 19

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 (MASCPA). 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.

GENERAL ASSEMBLY SETS FALL SESSION DATES

Both the PA House and Senate have announced when they will be in session this fall. The Senate Republican leadership does not see a reason to return after the November elections for a 'lame duck' session whereas the House chose to reserve those dates just in case of unfinished business. The House plans to meet ten total days in September and October while the House plans to be in for 17 days. The General Assembly has taken heat for convening after elections for fear of retiring and defeated legislators having too great a say in legislative decisions. One legislative priority will be transportation funding (because of the \$450 plus shortfall due to the Federal Government's decision not to permit tolling of I-80) and because the Special Session on Transportation convened by Governor Rendell earlier this year was inconclusive.

Other Budget issues include taxing of Marcellus Shale extraction and what the state will have to do if the US Congress does not approve expanded medical assistance monies to PA. This \$850 million was assumed to be forthcoming when the FY 2010-11 State Budget was approved but that prospect seems less likely given national fears on the deficit and increased spending during an election year. An independent legislative fiscal office similar to the Congressional Budget Office remains as an unresolved issue as well.

LEGISLATIVE OLD BUSINESS

Before recessing for the summer, the General Assembly worked on a number of pieces of legislation including:

- Senate passage of SB 1334 *excluding service contracts (excluding towing, emergency service or mechanical breakdown) from insurance regulation*. The House passed a version, HB 1774, similar except for mechanical breakdown.
- HB 2375 declares *indemnity agreements void in motor carrier contracts*...i.e. who is liable for faulty packing of products shipped around the country, the truckers or the shippers? It passed the House and is now in the Senate Transportation Committee.
- HB 1679, the *False Claims Act*, moved through House Rules Committee and was re-referred to Appropriations Committee. It sets penalties for making false claims for payment from governmental entities including contract of insurance or contracts which receive payments from the state (Medicaid).
- HB 2370 (*Public Adjusters*) passed the House and is now before the Senate Banking & Insurance Committee.
- HB 2490 tries to *capture information by race on the numbers failing the life/accident/health insurance license 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. It passed the House and is now before the Senate Banking & Insurance Committee.
- SB 288 regulates plumbing contractors and specifies that a licensed plumbing contractor must have at least one master plumber. *Master plumbers must have a certificate showing \$500,000 of liability insurance* coverage. It passed the Senate and is now before the House Labor Relations Committee.

FEDERAL UPDATE

- National Flood Insurance Program (NFIP) was reactivated and extended to September 30, 2010 because of a stopgap bill signed into law by the President. Of greater importance is House passage of HR 5114 which gives the NFIP five more years and enacts reforms. The bill was supported by both the Big I and the national PIA but contained language that two company trade associations, Property Casualty Insurers of America (PCI) and the American Insurance Association (AIA), said would put insurers at risk to absorb federal NFIP obligations through what is called “anti-concurrent causation” language.
- Financial regulation legislation (*Dodd-Frank Wall Street Reform & Consumer Protection Act (Conference Report 111-517)*) will be signed into law this week. In addition to mortgage broker oversight, Wall Street oversight, and credit card matters, it also establishes a federal Office of Insurance Regulation within the Treasury Department. Both PA Senators voted for.
- The Securities and Exchange Commission (SEC) had its controversial Rule 151 A struck down in federal court. This Rule held that the SEC and not the state insurance commissioners regulate equity index annuities, products whose value hanged based on performance of an entire system (Dow, S&P) rather than a particular group of investments. Details: Dressander & Associates 800/526-0319

REGULATORY UPDATE

- The PA Insurance Department issued Notice 2010-07 which gives carriers a form to use verifying compliance with the health benefit changes of the Patient Protection Affordable Care Act with the Department. (www.pabulletin.com Vol. 40, Number 27)
- Another Notice (2010-06) repealed 18 outdated Notices dating back to 1997. Most were mundane such as per diem charges for market exams which had since been updated.
- Old Republic International Corporation filed an application to acquire Manufacturers Alliance Insurance Company, PA Manufacturers Insurance Company and PA Manufacturers Indemnity Company.
- Independent Regulatory Review Commission, the agency charged with reviewing all state regulations has listed the following meetings through the end of 2010: August 5 and 19; September 16; October 7 and 21; November 4 and 18; December 2 and 16. Details; www.irrc.state.pa.us

MORE FEDERAL RESOURCE LINKS

As implementation of the Patient Protection Affordable Care Act accelerates, here are a number of resource links to note:

- Average Premium Rate by State (for calculating the small business health insurance tax credit) IRS Ruling 2010-13 and Ruling 2010-44 on calculating the tax credit itself are both found at www.irs.gov. Look for FAQs on the tax credit for the links.
- Application forms for the Early Retiree Reinsurance program are available at <http://www.hhs.gov/ociio/regulations/index.html>.
- The US Department of Labor Employee Benefits Security Administration has listed Rules governing the no patient cost for certain preventive services effective September 23, 2010. Fact sheet may be found at: <http://www.healthcare.gov/law/about/provisions/services/background.html>
- National long-term care insurance authority Stephen Moses of the Center for Long-Term Care Reform based in Seattle joined the Pennsylvania Association of Health Underwriters to convene a legislative Staff Briefing on the new CLASS LTC program for last week at the State Capitol. A copy of his Power point is accessible per request through smoses@centerltc.com .