

LEG REG REVIEW

2024, 13th Issue, June 8, 2024

LEG REG REVIEW is a periodic newsletter produced by Vince Phillips who retired from active lobbying after 31 years of advocacy in Harrisburg. It contains news on the legislative and regulatory scene in Pennsylvania that may be of interest to the Insurance and Business Communities. Annual subscriptions are \$100 and information may be obtained by contacting PHILLIPS ASSOCIATES at 717/728-1217 or e-mail to xenobun@aol.com.

ARE WE THERE YET (Relative to the State Budget)?

The start of the new Fiscal Year (FY) for the Commonwealth of PA is July 1. That puts June in position as the month when negotiations between the Democratic-controlled House and the Republican-controlled Senate hammer out the FY 2024-25 State Budget. Even though June 30 is the due date, that historically is not always the case. Some things that could hamper completion:

- All PA Senate Republicans joined with eight Democrats to propose **reducing the Personal Income Tax rate** from the current 3.07% to a pre-Rendell level of 2.8% per **Senate Bill 269** (Gebhard-R-Lebanon). According to Senate Appropriations Committee analysis, this would mean a \$614.5 million reduction in revenue in FY 2024-25. Source:

<https://www.legis.state.pa.us/WU01/LI/BI/SFN/2023/0/SB0269P1584.pdf>.

- **School Choice** remains a contentious sticking point. Senate Republicans and one Democratic Senator support a \$100 million scholarship program targeting low-income families with students in low-performing school districts. They are opposed by House Democrats who control that chamber with a one-vote majority who are strongly opposed to school choice. It is unclear where Governor Josh Shapiro will take a stand. During his campaign, Shapiro came out for school choice but ultimately, he sided with House Democrats to oppose its inclusion in the current State budget.
- PA has up to 13.8 billion dollars in its **Rainy-Day Fund**. Democrats argue that \$3.0 billion of that surplus should fund state needs given the drying up of Federal COVID and Recovery monies. Republicans are less inclined since they argue that Pennsylvania faces several years of Budget deficits. The Independent Fiscal Office (IFO) Economic & Budget Outlook FY 23-24 to FY 28-29 projects deficits at \$3.018 billion in FY 25-26 and \$3.3 billion in FY 2026-27. Source: Pages 43 and 44, http://www.ifo.state.pa.us/download.cfm?file=Resources/Documents/Five_Year_Outlook_2023.pdf.

NOTE: The IFO report projects FY 24-25 revenues at \$45.813 billion and expenditures at \$46.53 billion. The proposed State Budget for the next Fiscal Year (FY 24-25) calls for \$48.3 billion in spending -- \$1.77 billion more than the IFO estimate.

- **Among factors cited by IFO for the deficits are:**
 - **Increased state expenditures** in part because of a shift from Federal to state spending due to the phase out of Federal 'Crises' monies.
 - **Revenue reduction** due to Corporate Net Income Tax reduction of between \$200 and \$440 million in the next two Fiscal Years.
 - **Reduced Treasury collections** of between \$117 to \$355 million over the next two Fiscal Years, in part due to an assumed decline in the Federal Funds interest rate.
- **Other Issues/Assumptions that could change the Budget:**
 - **Should the Court-mandated increase in education funding be \$1.5 billion?** Despite general accord on an increase, the question is how much? Will this increase pose budgetary difficulties in the future as part of an institutionalized new expenditure?
 - **Will legalization of recreational cannabis take place?** The State Budget proposal sees a 20% tax after January 1, 2025 generating \$14.8 million in tax revenue through June 30, 2025, the end of the Fiscal Year. Of this, \$5.0 million would go to the PA Dept of Agriculture for managing the program. (Requires legislation.) Source: Page C-1-9 of the Governor's Budget Book. <https://www.budget.pa.gov/Publications%20and%20Reports/CommonwealthBudget/Documents/2024-25%20Budget%20Documents/Budget%20Book%202024-25%20-%20Web%20Version.3.pdf>.

DISTRACTED DRIVING BILL SIGNED INTO LAW

On June 4, **Senate Bill 37** (Brown-R-Monroe) was signed into law by Governor Shapiro as Act 18 of 2024. It prohibits driver use of hand-held wireless electronic devices while the car is moving except in an emergency situation. This marks success in a decade-long effort by former Representative and now Senator Rosemary Brown to address the issue of distracted driving which PennDOT blamed for 11-percent of reportable traffic crashes. Because of the details in the new law, following is a link to analysis prepared by the Democratic staff (majority) of the House Appropriations Committee:

<https://www.legis.state.pa.us/WU01/LI/BI/FN/2023/0/SB0037P1588.pdf>.

HOUSE PASSES ADDITIONAL HEALTH INSURANCE EXCHANGE SUBSIDY

Budgeting \$50 million for increased health insurance subsidies in Pennie, the state-based health insurance exchange (Affordable Care Act), is a top priority of the Shapiro Administration. The original proposal had the money being transferred from the Workers Compensation Security Fund but that source did not appear in the implementing legislation. In addition, the legislation would authorize the PA Insurance Department to petition CMS for a renewal of the Affordable Care Act waiver which allowed PA to set up its own state-based health insurance exchange.

House Bill 2234 (Kim-D-Dauphin/Cumberland) passed the House June 5 by a 106-96 vote with four Republicans joining all Democrats in favoring the bill. It has referred to the Senate Banking & Insurance Committee.

TELEMEDICINE MOVES THROUGH INSURANCE COMMITTEE

The House Insurance Committee reported out **Senate Bill 739 (Vogel-R-Beaver)** by a 25-0 vote on June 3. This bill would regulate the use of Telemedicine (remote health care) and require insurers to pay those claims within certain parameters. Insurers could not exclude coverage solely because the service is provided through Telemedicine. In addition, reimbursement for a claim may not be predicated on the use of an exclusive proprietary technology or vendor. Earlier, SB 739 passed the Senate 47-1 on May 8.

Its companion bill is **House Bill 1512** (Sappey-D-Chester) which passed the House 197-3 on April 10. It was referred to the Senate Banking & Insurance Committee on April 22.

INSURANCE COMMITTEE REPORTS INSURANCE REBATE BILL

On June 3, the House Insurance Committee reported out **Senate Bill 1092** (DiSanto-R-Dauphin) which allows insurance companies and producers to offer rebates and inducements of up to \$125 providing that the rebate/inducement is NOT contingent on a sale and is NOT unfairly discriminatory per the text of the bill: *“(v) The availability of the product or service is based on documented objective criteria and offered in a manner that is not unfairly discriminatory. The insurer or insurance producer shall maintain the criteria and produce the criteria upon request by the Department.”*

MANDATED BENEFIT BILL PASSES COMMITTEE

Reported out of the House Insurance Committee unanimously on June 3 was **House Bill 1754** (Mullins-D-Lackawanna and Cutler-R-Lancaster), a mandated benefit that expands the use of precision medicine using biomarkers. Biomarkers and Biomarker testing are defined in the legislation as:

"Biomarker." A characteristic that is objectively measured and evaluated as an indicator of normal biological processes, pathogenic processes or pharmacologic responses to a specific therapeutic intervention, including known gene-drug interactions for medications being considered for use or already being administered. The term includes gene mutations, characteristics of genes or protein expression. "Biomarker testing." The analysis of a patient's tissue, blood or other biospecimen for the presence of a biomarker. The term includes single-analyte tests, multi-plex panel tests, protein expression and whole exome, whole genome and whole transcriptome sequencing."

HOUSE VOTES FOR WORKER SAFETY COMMITTEE BILL

On June 5, the House voted 120-82 to pass **House Bill 2235** (Haddock-D-Luzerne). It promotes worker safety in the meat packing and food processing industry. By requiring worker safety committees, HB 2235 is silent as to will these be recognized by PA Department of Labor & Industry (L&I) as certified safety committees? If so, there is the matter of a five-percent reduction in Workers Compensation premiums allowed by **Act 44 of 1993 (Senate Bill 1)**, section 1002, amending the Workers Compensation Act and updated by **Act 202 of 2002 (Senate Bill 813)** to keep the discount for an indefinite term as long as L&I continues to certify.

OTHER INSURANCE ACTION ON THE HILL

- On June 5, the House passed legislation unanimously setting up a regulatory framework for Pet Insurance. It has gone to the Governor for his signature. **House Bill 660** (Schlossberg-D-Lehigh) adopts the National Association of Insurance Commissioners (NAIC) model legislation.
- Also passing the House unanimously on June 5 was **Senate Bill 943** (Phillips-Hill-R-York). It adopts NAIC model legislation regarding Travel Insurance. It also awaits the Governor's OK.
- **Senate Bill 577** (Kane-D-Chester/Delaware) dealing with mis-identification of employees as independent contractors was re-tabled in the Senate calendar on June 5.
- On June 4, the House voted 181-21 for **House Bill 1867** (Venkat-D-Allegheny) to prohibit health insurance companies from requiring payment to health care providers by virtual credit cards. It was referred to the Senate Banking & Insurance Committee on June 7.

ELIMINATING PRE-LICENSING EDUCATION TO RECEIVE COMMITTEE ATTENTION

On June 10, the Senate Banking & Insurance Committee plans to take up **Senate Bill 1241** (Gebhard-R-Lebanon) to eliminate the 24 hours of pre-licensing instruction required before a person can take the insurance licensing exam. His sponsorship memo said that a majority of the states have already limited this requirement and the Insurance Department does not oppose elimination of the pre-exam education requirement.

In addition, the committee will consider two other bills. **House Bill 1664** (Scott-D-Montgomery) would prevent health insurance companies from mandating payment via virtual credit card for dentists' claims. In addition, insurers' electronic funds transfers for dentists' payments could not impose a fee for the transaction. Previously, HB 1664 passed the House in April by a vote of 201-0. The last bill being considered is **House Bill 2096** (Warren-D-Bucks). This is a Surplus Lines bill that authorizes Surplus Lines licensees to receive a service fee in addition to commissions. For Personal Lines, the fee amount must not exceed \$150.00 or four-percent of the premium. There are advance fee disclosures to the clients and a listing on monthly reports going to the Insurance Department.

BUDGET FINE PRINT

Often overlooked in the Big Picture of the State Budget are several insurance-specific items to note:

- The Insurance Department seeks 8 new employees to reduce the insurance investigation backlog. Cost would be \$443,000. This would bring the number of PID employees to 291.
- The Automobile Theft Prevention Trust Fund would have \$8.5 million in disbursements in FY 2024-25. The Insurance Fraud Prevention Authority plans for \$17.4 million in disbursements for the next Fiscal Year. Both entities' funding comes from insurance companies.
- Anticipated Fund Budgets:
 - Underground Storage Tank Indemnification Fund: \$55.7 million.
 - Workers Compensation Security Fund total is expected to be \$62.1 million.
 - Insurance Liquidation Fund: \$11.0 million.
- The PA Insurance Department has \$464,000 budgeted in FY 2024-25 for public information and communications.