



# HOUSE COMMITTEE ON APPROPRIATIONS

2009-10 Legislative Session

## FISCAL NOTE

HOUSE BILL: 2477

PRINTER'S NO: 4471

PRIME SPONSOR: Fabrizio

FISCAL IMPACT SUMMARY	FY 2010/11	FY 2011/12
<b>Estimated Expenditure Increase/(Decrease):</b>		
General Fund	\$0	\$0
Erie County Convention Center Authority	\$0 to \$1,483	\$0 to \$1,483
County Costs	*See Analysis	*See Analysis

(Note: County Costs do not include Philadelphia County)

### OVERVIEW:

#### Summary

This bill changes the appointing authority and expands the board of convention center authorities for Third Class Counties who have chosen to form such an authority under the Third Class County Convention Center Authority Act (Alternative Provision), which is found in subdivision "o" of Article VIII of The County Code (1955, P.L. 323, Act 130).

**The Senate amended the bill to allow governing bodies of counties, other than Philadelphia, to abolish the office of jury commissioner.**

**The Senate also amended the bill to make official records of coroners subject to the Right-to-Know Law (Act 3 of 2008).**

**The Senate further amended the bill to create a new Article XV.2 on "County Officer and Employee Fiscal Security," which, according to the Local Government Commission (LGC), codifies, standardizes, and updates provisions related to bonds or insurance for elected and appointed county officers and county employees who have fiduciary duties.**

#### Erie County Convention Center Board

This bill would immediately impact Erie County as it is the only Third Class County that has formed a county convention center authority under subdivision "o". It does not apply to Berks County, Lancaster County, and Luzerne County who all have formed county convention centers under different provisions of law. The remaining third class counties—Chester, Dauphin, Lackawanna, Lehigh, Northampton, Westmoreland, and York—may opt to form a convention center authority sometime in the future under the provisions of this subdivision, unless that county is served by a joint planning commission with at least one other county.

Specifically, the bill increases the size of the board from nine to eleven members. The mayor of the City of Erie now has three appointments, but the bill reduces the number to two. Furthermore, the mayor will no longer require the advice and consent of city council.

The county executive, with the advice and consent of county council, now has four appointments, but this appointing power will be eliminated. In its place, the county council itself would receive seven appointments. The two appointments from the Governor are unchanged. The bill is structured so that the appointments from the new appointing authorities only take effect when the terms of office of the current members expire or there is a vacancy.

For future third class county convention authorities, the bill provides that if the facilities of the convention center are located in a municipality where there is no mayor, then the governing body of that municipality would make the two appointments. Likewise, if a third class county does not have a county council, then the governing body, which would in this case be the county commissioners, would make the seven appointments,

#### **Jury Commissioners Abolition Option**

**The bill, as amended by the County, would give counties the option of abolishing the office of jury commissioner. The County Code specifies each county shall have two jury commissioners.**

**Philadelphia County is unaffected by this bill because the section in question of the County Code does not apply to First Class Counties. Additionally, the Code currently allows certain third class counties, based on population to abolish the office, which Berks, Dauphin, and York counties have already exercised.**

**Except for home rule counties, Chapter 21, Subchapter C, Title 42 (Judiciary and Judicial Procedures), Pa.C.S., provides for jury selection commissions and specifies the office and election of jury commissioner. The home rule counties that do not have jury commissioners are Allegheny, Delaware, Erie, Lackawanna, Lehigh, Northampton, and Philadelphia.**

**This bill does not mandate the abolition of the office of jury commissioner. It provides the governing bodies of counties the option to abolish the office.**

**Section 10 of Act 113 of 1971 provides for the minimum salaries of jury commissioners, which are as follows:**

<b>County Class</b>	<b>Minimum Salary as of January 1, 1980</b>
Third	\$6,500
Fourth	\$5,000
Fifth	\$4,000
Sixth	\$3,000
Seventh	\$2,500
Eighth	\$2,000

**Section 10.1 of that act provides for a procedure whereby the county commissioners may fix the salaries from time to time above the minimum salaries listed above.**

### **Bonding and Financial Security**

The Senate amended the bill adding a new Article XV.2, which includes 13 new sections, and repealing sections of the County Code that conflict with the new Article.

**§1560 (Scope of article)** This Article applies to County Officer and Employee Fiscal Security, and it applies to security coverage and additional coverage in the form of bonds, blanket bonds, or insurance, protecting against events of loss of money or property as a result of misconduct by officers and employees in counties of the second class, second class A, third class, fourth class, fifth class, sixth class, seventh class or eighth class, including counties of these classes which have adopted a home rule charter or an optional plan. This article does not apply to bonds of county treasurers acting as tax collectors as provided for under the Local Tax Collection Law.

**§1561 (Definitions)** provides for definitions.

**§1570 (Required security)** A county shall obtain security coverage and additional coverage for county officers and employees. Supplemental to or as part of the security coverage to be obtained, additional coverage in the form of adequate insurance indemnifying against the loss of money and property through robbery, burglary and larceny, shall be provided for each county officer or employee who is required to receive, account for or hold any money and other property by virtue of the officer's or employee's office or employment.

The county shall be primarily liable for a claim for the loss of money and property which a county officer or employee is required to receive, account for or hold by virtue of the officer's or employee's office or employment. The county shall not be primarily liable for a claim for the loss of money and property to the extent that the recovery of the loss can be obtained from other insurance or bond protection provided by the Commonwealth agency or any other person or entity asserting a claim. Nothing in this article shall restrict or diminish a county's right to reimbursement or subrogation or to limit any right the county may have to be indemnified or receive restitution for the loss.

**§1571 (Official security and officers)** Each county shall obtain official security in the form of bonds, a blanket bond or a crime-fidelity insurance policy on behalf of county officers, whether appointed or elected, before those officers begin their official duties. The following are the officers or equivalent officers in home rule or optional plan counties upon whose behalf official security shall be obtained:

- Each county commissioner.
- The chief clerk of the county commissioners.
- The controller.
- The county treasurer.
- The prothonotary of the court of common pleas.
- The sheriff.
- The coroner.
- The clerk of the orphans' court division of the court of common pleas.
- The recorder of deeds.
- The register of wills.
- Probation and parole officers, if required by order of the court to obtain security.

- The fire marshal and deputy fire marshals, if required by law to obtain security.
- The secretary of the board of health and the health officer in a county which the secretary is required by law to obtain security.

**§1572 (Other county officers and employees)** A county shall obtain security coverage with faithful performance of duty coverage for all county officers and employees who are not subject to §1571 (Official security and officers), including deputies and other appointees in each county office, who are required to receive, account for or hold any money and other property.

**§1573 (County officers and employees acting as agents)** Each county shall obtain security coverage for county officers and employees acting as agents of a Commonwealth agency or governing authority in accordance with this article or any other law, regulation or rule requiring the posting of security in the form of a bond or otherwise.

**§1574 (Bonds or blanket bonds as security coverage)** A county is in compliance with the provisions of House Bill 2477 if the bond of blanket bond is joint and several, with one or more surety companies authorized to do business in this Commonwealth and licensed by the Insurance Commissioner. The bond or blanket bond shall be taken in the name of the county and, in the case of a breach of any of the conditions thereof by the acts or neglect of a principal on the bond, shall be for the use of the county, the Commonwealth, a political subdivision or any other person.

In counties in which one or more of the county offices are combined, if officers are covered by individual bonds, a single bond covering the combined offices shall suffice for the officer holding the combined offices.

**§1575 (Insurance as security coverage)** A county may comply with the provision of this bill by providing crime-fidelity insurance for county officers or employees.

**§1576 (Form of required security)** The form and contents of a bond, a blanket bond or insurance obtained in compliance with this article shall be approved by the governing body of the county, after review by the county solicitor and consultation with the county risk manager, if any. In cases which required security is being provided for a county officer or employee who is acting as an agent for a Commonwealth agency or the governing authority, the Commonwealth agency or the governing authority may review and comment on the form of the required security. The governing body may refer to sample forms that may be made available by the Department of State in the approval process.

**§1577 (Amount of coverage)** The county commissioners shall establish a procedure pursuant to which the county shall annually determine the form and amount of required security that will be reasonably sufficient to protect against the risks of loss. The county commissioners may appoint a risk manager who, at the request of the county, shall compile and submit information relevant to the determination of an amount of required security.

To determine the amount of security for a county officer or employee who is acting as an agent for a Commonwealth agency or governing authority, the county or the risk manager shall provide written notice to the secretary or head of the Commonwealth agency or the governing authority. The Commonwealth agency or courts may provide input regarding the amount of security it believes is reasonably sufficient to protect against loss.

**§1578 (Custody and filing of required security documents)** The county commissioners shall direct the chief clerk or equivalent officer to present the documents evidencing required security obtained to the recorder of deeds. In compliance with Section 809 (regarding commissions for elected officials) of the Administrative Code of 1929, it is sufficient for a copy of the recorded documents evidencing the required security for county officers to be filed with the Department of State in accordance with deadlines established by the department. No tax, fee or other charge shall be imposed for the recording of documents in compliance with this section.

**§1579 (Payment of premiums and commissions on collections)** The premiums and costs for all forms of required security for county officials and employees shall be paid by the county. The requirement that a county acquire and pay the premiums and costs for required security shall not relieve a Commonwealth agency on whose behalf a county officer or employee is acting as an agent from an obligation, imposed by law, to procure insurance or bonding protection.

**§1580 (Other requirements, references and approvals)** A requirement in another law, regulation or rule that a bond be provided by a county officer or employee to secure the faithful performance of duty or to act as the agent of a Commonwealth agency or governing authority may be satisfied by including this obligation within the coverage of required security.

Effective Date:

The effective date is immediately.

**ANALYSIS:**

Erie County Convention Center Board

Upon enactment, the board for the Erie County Convention Center Board will likely increase by two members. The County Council would receive three immediate appointments, but the mayor loses one appointment. Because there is a mayoral appointment on the board whose term has expired but who is awaiting for a successor or reappointment pursuant to §2399.61(a)(4)(b), this position will expire immediately upon the effective date.

Pursuant subdivision “o”, no board member receives compensation but they may be reimbursed for expenses. In 2009, the total reimbursed expenses were \$6,674.50, which averages to \$741.61 per member. According to officials of the Authority, however, 2009 was an unusual year, and normally there are no reimbursements for expenses of board members. For 2010, for example, there have been no requests for reimbursements submitted by board members, and there were no reimbursements for members for at least eight years prior. Using 2009 as a basis for projecting the cost of this bill—which yields \$1,482.22 because the board will expand by two members—will likely yield a high estimate given recent history. It may be best to represent the cost of this bill to the Authority by stating it as a range from \$0 to \$1,483.22, with the notation that it would more likely be zero for most years given recent history.

Jury Commissioners Abolition Option

Unless a county exercises the proposed option to abolish the office of jury commissioner, this bill has no fiscal impact. If a county does exercise this option, the fiscal impact, if any, will depend on how the county now utilizes jury commissioners in comparison to how the county chooses to replace the functions now performed by those commissioners.

As specified in the bill, the abolition of a jury commissioner office can only occur after the terms of the current jury commissioners expire; thus the fiscal impact of this bill cannot occur prior to the expiration of those offices.

In some cases, as with York County who has already abolished the office, there will be some savings consisting of the salaries and benefits less any additional costs to implement new provisions to accomplish the duties currently done by the commissioners. In York County, the court administrator had performed nearly that all the work required for jury selection, and the jury commissioner merely signed off on their selections.

In other counties, however, the jury commissioners perform the necessary work for jury selection. In Indiana and Mercer counties, for example, the jury commissioners work with the president judge in the selection process, making it unlikely that these counties would exercise the option proposed by this bill. If they did, the county would not likely realize any cost savings because the county would need to replace the jury commissioners in order to continue the necessary function of jury selection.

At this time, there is not a complete list detailing which counties function similarly to the way York County operated prior to its abolishment of the office or, alternatively, similar to Indiana and Mercer counties. The Pennsylvania Manual for December 2009 lists the following salaries for jury commissioners: Adams (6<sup>th</sup> Class), \$9,201; Armstrong (6<sup>th</sup> Class), \$8,507; Beaver (4<sup>th</sup> Class), \$13,220; Bedford (6<sup>th</sup> Class), \$8,237; Blair (5<sup>th</sup> Class), \$11,596; Bradford (6<sup>th</sup> Class), \$4,448; Butler (4<sup>th</sup> Class), \$15,835; Cambria (4<sup>th</sup> Class), \$11,016; Cameron (8<sup>th</sup> Class), \$5,220; Carbon (6<sup>th</sup> Class), \$8,987; Center (5<sup>th</sup> Class), \$11,944; Chester (3<sup>rd</sup> Class), \$19,248; Clarion (6<sup>th</sup> Class), \$7,893; Clearfield (6<sup>th</sup> Class), \$7,111; Clinton (6<sup>th</sup> Class), \$7,661; Columbia (6<sup>th</sup> Class), \$9,440; Crawford (6<sup>th</sup> Class), \$8,871; Cumberland (4<sup>th</sup> Class), \$13,449; Elk (6<sup>th</sup> Class), \$6,510; Fayette (4<sup>th</sup> Class), \$10,428; Forest (8<sup>th</sup> Class), \$5,381; Franklin (5<sup>th</sup> Class), \$12,813; Fulton (8<sup>th</sup> Class), \$5,485; Greene (6<sup>th</sup> Class), \$6,652; Huntingdon (6<sup>th</sup> Class), \$6,452; Indiana (6<sup>th</sup> Class), \$8,013; Jefferson (6<sup>th</sup> Class), *not listed*; Juniata (7<sup>th</sup> Class), \$4,825; Lancaster (3<sup>rd</sup> Class), \$7,649; Lawrence (5<sup>th</sup> Class), \$11,100; Lebanon (5<sup>th</sup> Class), \$10,500; Lycoming (5<sup>th</sup> Class), \$7,779; McKean (6<sup>th</sup> Class), \$7,683; Mercer (5<sup>th</sup> Class), \$12,836; Mifflin (6<sup>th</sup> Class), \$9,817; Monroe (5<sup>th</sup> Class), \$9,700 (*data supplied by the PA State Association of Jury Commissioners*); Montour (8<sup>th</sup> Class), \$5,312; Northumberland (5<sup>th</sup> Class), *not listed*; Perry (7<sup>th</sup> Class), \$6,816; Pike (6<sup>th</sup> Class), \$8,042; Potter (8<sup>th</sup> Class), \$6,687; Schuylkill (4<sup>th</sup> Class), \$11,751; Snyder (7<sup>th</sup> Class), \$7,622; Somerset (6<sup>th</sup> Class), \$9,036; Sullivan (8<sup>th</sup> Class), \$4,585; Susquehanna (6<sup>th</sup> Class), \$7,964; Tioga (6<sup>th</sup> Class), \$9,352; Union (7<sup>th</sup> Class), \$7,616; Venango (6<sup>th</sup> Class), \$8,108; Warren (6<sup>th</sup> Class), \$8,300; Washington (4<sup>th</sup> Class), \$15,196; Wayne (6<sup>th</sup> Class), \$7,221; Westmoreland (3<sup>rd</sup> Class), \$13,349; and Wyoming (7<sup>th</sup>), \$8,136. Each county has two jury commissioners, thus the salary cost would be double for each county. Some counties provide benefits, but most others do not. There is not an available list at this time on which counties provide benefits and their costs.

#### **Coroner Official Records**

The addition of the Senate making Coroner records subject to the Right-to-Know Law has no fiscal impact.

### **Bonding and Financial Security**

According to LGC, the provisions on bonding and financial security originated in 2006 when, at the request of the Pennsylvania Recorder of Deeds Association, the LGC authorized its staff to become part of a working group to review current laws related to bonding and financial security for elected and appointed officials who act in a fiduciary capacity. In addition to staff members from the LGC, the working group consisted of representatives of the County Commissioners Association of Pennsylvania, the Pennsylvania Recorder of Deeds Association, on behalf of both itself and the Pennsylvania State Association of Elected Officials, the Pennsylvania Department of State, the Pennsylvania Department of Revenue, the Pennsylvania Department of the Auditor General, the Pennsylvania Game Commission, and the Pennsylvania Fish and Boat Commission.

Also according to LGC, the amounts of bonds stipulated for various county officials as provided in law have not been increased in approximately 50 years and for the most part are insufficient.

According to the Department of State, there would be minimal savings among all the counties as a result of not having to pay for filing fees. The actual savings are not quantifiable as each county varies in its needs for coverage.

The enactment of the bonding and financial security provision is not expected to have a fiscal impact on the Commonwealth.

### **Sources:**

The following sources were used in the preparation of this fiscal note: the Local Government Commission, the Department of State, the Erie County Convention Center Authority, the County Commissioners Association of Pennsylvania, the Pennsylvania Manual, staff of the House Local Government Committee, the Pennsylvania State Association of Jury Commissioners, the County Commissioners Association of Pennsylvania, and the counties of Indiana, Mercer, and York.

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**General Note and Disclaimer:** *This Fiscal Note was prepared pursuant to House Rule 19(a), and the elements considered and reported above are required by Section 5 of the rule. Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*