

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1

Session of
2009

INTRODUCED BY BROWNE, PILEGGI, ORIE, BAKER, FOLMER, EARLL,
ERICKSON, BRUBAKER, TOMLINSON, VANCE, PIPPY, SMUCKER,
WOZNIAK, ROBBINS, CORMAN, WAUGH, GORDNER, M. WHITE AND
EICHELBERGER, MAY 27, 2009

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED, JULY 14,
2009

AN ACT

1 Establishing the Legislative Fiscal Office and providing for its
2 powers and duties; and making a related repeal.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Legislative
7 Fiscal Office Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Baseline budget." A draft budget using current dollar
13 values that projects current year levels of budget authority,
14 outlays and revenues and the deficit or surplus into the new
15 budget year and out years on the basis of current laws and
16 policies.

1 "Committee." The Legislative Fiscal Office Selection
2 Committee.

3 "Commonwealth agency." Any office, department, authority,
4 board, multistate agency or commission of the executive branch.

5 The term includes:

6 (1) The Office of the Governor.

7 (2) The Office of Attorney General, the Department of
8 the Auditor General and the Treasury Department.

9 (3) An independent agency as defined in the act of
10 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know
11 Law.

12 (4) A State-affiliated entity as defined in the act of
13 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know
14 Law.

15 (5) The General Assembly.

16 (6) The Judiciary.

17 "Director." The director of the Legislative Fiscal Office.

18 "Office." The Legislative Fiscal Office established in
19 section 3.

20 Section 3. Office established.

21 There is hereby established a nonpartisan Legislative Fiscal
22 Office as an independent agency.

23 Section 4. Duties of office.

24 The office shall:

25 (1) Prepare revenue estimates to include Federal funds,
26 State revenues and funds from other resources, including any
27 projected revenue surplus or deficit for a given fiscal year,
28 as provided under section 5.

29 (2) By January 1, provide a baseline budget that
30 includes levels of spending necessary to retain all current

1 programs and statutory requirements.

2 (3) Provide an analysis of the executive budget,
3 including budgetary projections, economic outlook and
4 economic impact and an analysis of all related tax and
5 revenue proposals. The budget analysis may include
6 performance recommendations to secure greater efficiency and
7 economy.

8 (4) Develop and use econometric models to annually
9 forecast State revenues and update the models. The office
10 shall make the equations of a model and any historic
11 databases related thereto available to the Appropriations
12 Committee of the Senate, the Appropriations Committee of the
13 House of Representatives, the Majority Leader and Minority
14 Leader of the Senate and the Majority Leader and Minority
15 Leader of the House of Representatives.

16 (5) By November 15 of each year, provide an assessment
17 of the State's current fiscal condition and a projection of
18 what the fiscal condition will be during the next five years.
19 The assessment shall take into account the state of the
20 economy, demographics, revenues and expenditures.

21 (6) Monitor State taxes and other receipts.

22 (7) Develop performance measures for executive level
23 programs and departments and evaluate performance measures
24 and results as promulgated and reported by executive level
25 departments. Performance measurements shall be outcomes-based
26 and include, but not be limited to, activity cost analysis,
27 measures of status improvement of recipient populations,
28 economic outcomes and performance benchmarks against similar
29 State programs.

30 (8) Establish an Internet website.

1 Section 5. Revenue estimates.

2 (a) Initial revenue estimate.--By the second week of
3 February, the office shall submit to the General Assembly an
4 initial revenue estimate for the next fiscal year.

5 (b) Official revenue estimate.--

6 (1) By June 15 of each year, the office shall submit to
7 the General Assembly an official final revenue estimate for
8 the next fiscal year.

9 (2) The revenue estimate submitted under this section
10 shall establish the maximum amount of tax revenue which may
11 be considered for the General Appropriation Act for the
12 ensuing fiscal year. No changes in the revenue estimates
13 shall be made by the office thereafter unless changes in
14 statutes affecting revenues and receipts are enacted.

15 (3) The office shall publish the methodology used to
16 develop revenue estimates.

17 (c) Information.--The office shall provide the
18 Appropriations Committee of the Senate, the Appropriations
19 Committee of the House of Representatives and the Secretary of
20 the Budget all data, assumptions and econometric models used to
21 develop projections and revenue estimates.

22 (d) Required information.--

23 (1) A revenue estimate submitted by the office under
24 this subsection shall include all of the following:

25 (i) An assessment of the Pennsylvania economy and
26 the national economy and the impact of the existing or
27 emerging State or national economic trends on revenue
28 performance for the current year and the forecasted or
29 projected revenue collections for the budget year and the
30 succeeding year.

1 (ii) A summary of current year-to-date revenue
2 collections by specific tax or revenue source, including
3 Federal funds, the General Fund, the Lottery Fund and the
4 Motor License Fund and a detailed explanation of any
5 negative or positive variation from the prior year's
6 official revenue estimate, including the reasons or
7 events contributing to the variation.

8 (iii) Any projected revenue surplus or deficit for
9 the current budget year.

10 (2) A revenue estimate shall be based on existing
11 statutes and tax policy and existing or emerging State or
12 national economic trends.

13 (3) The office shall prepare a revenue estimate of any
14 change in State tax law proposed as part of the annual State
15 budget. If the proposed change in State tax law will have a
16 fiscal impact in excess of \$10,000,000 in any fiscal year,
17 the estimate shall be prepared on the basis of assumptions
18 that estimate the probable behavioral responses of taxpayers,
19 businesses and other persons to the proposed changes and
20 shall include a statement identifying those assumptions.

21 (e) Department of Revenue.--The Department of Revenue in
22 conjunction with the Secretary of the Budget shall make revenue
23 estimates for the use of the Governor in preparing the budget.

24 (f) Governor.--The Governor shall item veto any part of any
25 appropriation bill that causes total appropriations to exceed
26 the official revenue estimate under subsection (b) plus any
27 unappropriated surplus.

28 Section 6. Budget information.

29 The office shall be notified and shall attend any briefings
30 provided by the Governor or the Secretary of the Budget under

1 section 619 of the act of April 9, 1929 (P.L.177, No.175), known
2 as The Administrative Code of 1929.

3 Section 7. Expenditures.

4 (a) Expenditure reports.--Commonwealth agencies shall make
5 monthly expenditure data available to the office. The data shall
6 be provided within seven days after the end of each month. The
7 monthly data shall include a summary of the last monthly
8 submission. The data shall be provided in finished reports or
9 electronically, as determined by the office. The data shall be
10 provided by fund, by appropriation, by department and by
11 organization within each department and shall include:

12 (1) Number of filled personnel positions and their cost.

13 (2) Itemized personnel vacancies and their cost.

14 (3) New positions created and their cost.

15 (4) Wage and overtime costs.

16 (5) Allotments and expenditures for itemized personnel
17 expenses.

18 (6) Allotments and expenditures for itemized operating
19 expenses.

20 (7) Allotment and expenditures for itemized fixed
21 assets.

22 (8) The rate of expenditures in appropriations for major
23 subsidy and grant programs during the month.

24 (b) Budget requests.--Commonwealth agencies shall submit
25 their agency budget requests to the office and the Office of the
26 Budget. The Commonwealth agency budget requests shall be
27 submitted to both offices at the same time.

28 (c) Revenue reports.--The Governor shall make monthly
29 revenue reports to the office. The revenue reports shall show
30 the actual collection of revenue itemized by source and a

1 comparison of the actual collections with estimated collections
2 for each month. The comparison shall include an analysis of any
3 change in collection patterns which will cause a shortfall or
4 overrun on annual estimates of more than 1%.

5 (d) Other revenue data.--Commonwealth agencies shall cause
6 to be prepared any other revenue data as may be requested from
7 time to time by the office.

8 (e) Electronic access.--Except for information that is
9 confidential pursuant to statute, the office shall have access
10 to all information available under this section on inquiry-only
11 screens through an integrated central computer system.

12 Section 8. Revenue conference.

13 By January 31 of each year, the office shall convene a
14 meeting with the Secretary of the Budget and the chairman and
15 minority chairman of the Appropriations Committee of the Senate
16 and the chairman and minority chairman of the Appropriations
17 Committee of the House of Representatives to discuss the
18 following:

19 (1) An assessment of the Pennsylvania economy and the
20 national economy and the impact of the economic trends on
21 revenue performance for the budget year and the succeeding
22 year.

23 (2) Recommended changes to revenue forecasting and
24 econometric models being considered by the office.

25 (3) Current year-to-date revenue collections by specific
26 tax or revenue source, including Federal funds, the General
27 Fund, the Lottery Fund and the Motor License Fund and
28 variations that may be occurring in the revenue estimate
29 submitted under section 5(a).

30 (4) Any statutory or tax policy changes that may be

recommended by the Governor or the General Assembly for the next succeeding fiscal year.

Section 9. Access to information.

(a) Agencies.--The director is authorized to secure information, data, expense information, estimates and statistics directly from a Commonwealth agency or a political subdivision. All Commonwealth agencies and political subdivisions shall furnish the director with all reports of expenditure for each agency and any other available material or data which the director determines to be necessary in the performance of the duties of the office, other than material the disclosure of which would be a violation of law. The director is also authorized, upon agreement with the head of any Commonwealth agency or political subdivision, to utilize the services, facilities and personnel of the agency with or without reimbursement.

(b) Office of the Budget.--In carrying out the duties and functions of the office, the director is authorized to obtain information, data, estimates and statistics developed by the Office of the Budget and all Commonwealth agencies. The Governor shall submit to the office copies of final agency budget requests.

(c) Computer database.--In order to carry out its duties under this act, the office shall have access to any computerized database of a State agency that is required to aid the office in the performance of its duties, except that any statutory requirements regarding privacy of individuals' records shall be observed in providing access.

(d) Daily revenue data.--

(1) The Secretary of Revenue and the Secretary of the

Budget shall post revenue collection data for each deposit day and make the information available to the office and the chairman and minority chairman of the Appropriations Committee of the Senate and the chairman and minority chairman of the Appropriations Committee of the House of Representatives.

(2) The daily revenue data shall be presented in a manner similar to and consistent with the daily revenue data provided on June 30, 2007. In no case shall each deposit day contain less information than was accessible during the 2006-2007 fiscal year as a result of changes in reporting procedures, accounting systems or computer systems.

(3) The Governor, the Attorney General, the Auditor General and the State Treasurer shall cause to be prepared any other revenue data as may be requested by the office.

(e) Civil action.--If information is not made available by a Commonwealth agency or political subdivision within a reasonable time, the director may make a written request to the agency head, stating the authority to receive the information. The agency head shall have ten days to respond. If the information is not provided within ten days of the receipt of the agency response, the director may bring a civil action to require the agency head to provide the information.

Section 10. ~~Director~~ SELECTION AND ORGANIZATION COMMITTEE. ←

(a) Selection AND ORGANIZATION committee.--There is hereby established a committee to ORGANIZE THE OFFICE AND select the director of the office consisting of the following: ←

(1) The chairman and minority chairman of the Appropriations Committee of the Senate and the chairman and minority chairman of the Appropriations Committee of the ←

House of Representatives.

(2) The Majority Leader and the Minority Leader of the Senate and the Majority Leader and the Minority Leader of the House of Representatives.

(3) The President pro tempore of the Senate and the Speaker of the House of Representatives.

~~(b) Appointment.~~ (B) DUTIES OF COMMITTEE.--THE FOLLOWING
SHALL APPLY:

(1) BY JANUARY 15, 2010, THE SELECTION AND ORGANIZATION COMMITTEE SHALL DELIBERATE THE FOLLOWING:

(I) THE ORGANIZATIONAL STRUCTURE OF THE OFFICE.

(II) THE PROCEDURES TO BE ADOPTED TO SELECT THE DIRECTOR OF THE OFFICE.


(III) THE OPERATIONAL BUDGET FOR THE OFFICE.



(2) BY MAY 30, 2010, THE SELECTION AND ORGANIZATION COMMITTEE SHALL SUBMIT A REPORT TO THE SECRETARY OF THE BUDGET, THE CHAIRMAN AND MINORITY CHAIRMAN OF THE APPROPRIATIONS COMMITTEE AND THE CHAIRMAN AND MINORITY CHAIRMAN OF THE FINANCE COMMITTEE OF THE SENATE AND THE CHAIRMAN AND MINORITY CHAIRMAN OF THE APPROPRIATIONS COMMITTEE AND THE CHAIRMAN AND MINORITY CHAIRMAN OF THE FINANCE COMMITTEE OF THE HOUSE OF REPRESENTATIVES SETTING FORTH A PLAN TO ESTABLISH THE OFFICE, INCLUDING AN OPERATIONAL BUDGET, AND TO SELECT THE DIRECTOR OF THE OFFICE.


SECTION 11. APPOINTMENT.


(A) DIRECTOR.--The office shall be headed by a director appointed by the selection committee under ~~subsection (a)~~
SECTION 10. The appointment shall be made without regard to political affiliation and solely on the basis of fitness to perform the duties of the office based on qualifications

1 published by the selection committee.

2 ~~(e)~~ (B) Deputy director.--The director shall appoint a 
3 deputy director who shall perform such duties as assigned by the
4 director and who shall during the absence or incapacity of the
5 director or a vacancy act as the director.


6 ~~(d)~~ (C) Term.--The term of office of the director shall be 
7 ~~four~~ SIX years. An individual appointed as director to fill a 
8 vacancy prior to the expiration of a term shall serve only for
9 the unexpired portion of that term. An individual serving as
10 director at the expiration of a term may continue to serve until
11 a successor is appointed.

12 ~~(e)~~ (D) Removal.--The director may be removed by a 
13 concurrent resolution passed by the Senate and the House of
14 Representatives.

15 Section ~~11~~ 12. Powers and duties of director. 


16 (a) Personnel.--The director shall appoint and fix the
17 compensation of personnel as necessary to carry out the duties
18 and functions of the office. All personnel of the office shall
19 be appointed without regard to political affiliation and solely
20 on the basis of their fitness to perform their duties.

21 (b) Experts and consultants.--In carrying out the duties and
22 functions of the office, the director may procure the temporary
23 or intermittent services of experts or consultants or
24 organization thereof by contract.

25 Section ~~12~~ 19. Repeal. 

26 Section 618 of the act of April 9, 1929 (P.L.177, No.175),
27 known as The Administrative Code of 1929, is repealed in order
28 to effectuate the provisions of this act.

29 Section 20. Effective date.

30 This act shall take effect ~~in 60 days~~. AS FOLLOWS: 

- 1 (1) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.
- 2 (2) SECTION 10 SHALL TAKE EFFECT NOVEMBER 30, 2009.
- 3 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT JUNE 30,
- 4 2010.