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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1

Session of  
2009

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

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REFERRED TO FINANCE, MAY 27, 2009

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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.

17 "Committee." The Legislative Fiscal Office Selection

1 Committee.

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

4 The term includes:

5 (1) The Office of the Governor.

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

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

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

14 (5) The General Assembly.

15 (6) The Judiciary.

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

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

19 Section 3. Office established.

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

22 Section 4. Duties of office.

23 The office shall:

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

28 (2) By January 1, provide a baseline budget that  
29 includes levels of spending necessary to retain all current  
30 programs and statutory requirements.

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

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

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

20           (6) Monitor State taxes and other receipts.

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

29           (8) Establish an Internet website.

30 Section 5. Revenue estimates.

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

4 (b) Official revenue estimate.--

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

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

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

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

21 (d) Required information.--

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

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

30 (ii) A summary of current year-to-date revenue

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

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

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

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

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

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

27 Section 6. Budget information.

28 The office shall be notified and shall attend any briefings  
29 provided by the Governor or the Secretary of the Budget under  
30 section 619 of the act of April 9, 1929 (P.L.177, No.175), known

1 as The Administrative Code of 1929.

2 Section 7. Expenditures.

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

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

12 (2) Itemized personnel vacancies and their cost.

13 (3) New positions created and their cost.

14 (4) Wage and overtime costs.

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

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

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

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

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

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

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

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

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

11 Section 8. Revenue conference.

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

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

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

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

29 (4) Any statutory or tax policy changes that may be  
30 recommended by the Governor or the General Assembly for the

1 next succeeding fiscal year.

2 Section 9. Access to information.

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

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

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

28 (d) Daily revenue data.--

29 (1) The Secretary of Revenue and the Secretary of the  
30 Budget shall post revenue collection data for each deposit

1 day and make the information available to the office and the  
2 chairman and minority chairman of the Appropriations  
3 Committee of the Senate and the chairman and minority  
4 chairman of the Appropriations Committee of the House of  
5 Representatives.

6 (2) The daily revenue data shall be presented in a  
7 manner similar to and consistent with the daily revenue data  
8 provided on June 30, 2007. In no case shall each deposit day  
9 contain less information than was accessible during the  
10 2006-2007 fiscal year as a result of changes in reporting  
11 procedures, accounting systems or computer systems.

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

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

23 Section 10. Director.

24 (a) Selection committee.--There is hereby established a  
25 committee to select the director of the office consisting of the  
26 following:

27 (1) The chairman and minority chairman of the  
28 Appropriations Committee of the Senate and the chairman and  
29 minority chairman of the Appropriations Committee of the  
30 House of Representatives.

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

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

6       (b) Appointment.--The office shall be headed by a director  
7 appointed by the selection committee under subsection (a). The  
8 appointment shall be made without regard to political  
9 affiliation and solely on the basis of fitness to perform the  
10 duties of the office based on qualifications published by the  
11 selection committee.

12       (c) Deputy director.--The director shall appoint a deputy  
13 director who shall perform such duties as assigned by the  
14 director and who shall during the absence or incapacity of the  
15 director or a vacancy act as the director.

16       (d) Term.--The term of office of the director shall be four  
17 years. An individual appointed as director to fill a vacancy  
18 prior to the expiration of a term shall serve only for the  
19 unexpired portion of that term. An individual serving as  
20 director at the expiration of a term may continue to serve until  
21 a successor is appointed.

22       (e) Removal.--The director may be removed by a concurrent  
23 resolution passed by the Senate and the House of  
24 Representatives.

25 Section 11. Powers and duties of director.

26       (a) Personnel.--The director shall appoint and fix the  
27 compensation of personnel as necessary to carry out the duties  
28 and functions of the office. All personnel of the office shall  
29 be appointed without regard to political affiliation and solely  
30 on the basis of their fitness to perform their duties.

1 (b) Experts and consultants.--In carrying out the duties and  
2 functions of the office, the director may procure the temporary  
3 or intermittent services of experts or consultants or  
4 organization thereof by contract.

5 Section 12. Repeal.

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

9 Section 20. Effective date.

10 This act shall take effect in 60 days.