



HOUSE COMMITTEE ON APPROPRIATIONS

2009-10 Legislative Session

FISCAL NOTE

HOUSE BILL: 1831

PRINTER'S NO: 2489

PRIME SPONSOR: Houghton

FISCAL IMPACT SUMMARY	FY 2009/10	FY 2010/11
Estimated Revenue Increase/(Decrease):		
Local Government Funds of Second Class A Cities (Scranton), Third Class Cities, all Townships, Boroughs, and the town of Bloomsburg.		<i>Potential revenue increase in fees for each municipality ranging from \$0 to an indeterminate amount.</i>

OVERVIEW:

This bill amends the Pennsylvania Municipalities Planning Code (Act 247 of 1968, as amended), which applies to townships, boroughs, towns, and cities, except Philadelphia and Pittsburgh, to allow these municipalities to amend their zoning ordinances to include review fees for conditional use applications in order to pay the cost of outside consultants that may be hired to review the applications.

Under current law, Section 617.3(e) of the Pennsylvania Municipalities Planning Code enables municipalities to charge application fees pursuant to zoning ordinances to cover the costs of zoning, *but* it prohibits them from including the costs of "engineering, architectural or other technical consultants" in the calculation of the fee. This bill will specifically allow municipalities to charge a separate review fee to cover the cost of these consultants but only for reviewing conditional use applications.

In order to charge review fees, this bill stipulates a municipality must enact by ordinance a fee schedule with the stipulation that the fee charged may not exceed the rate or cost charged by the professional consultant used to review the application.

The bill further provides for a procedure whereby the applicant may contest a fee amount charged for reviewing a conditional use application. If challenged, the applicant has the opportunity to work toward an agreement with the municipality's professional consultant. If they cannot agree on the fee to be charged, then the applicant has the right to request arbitration. If the arbitrator sustains the fee amount, the cost of arbitration shall be paid for by the applicant. If not, then the cost of arbitration is split evenly between the municipality and the applicant. The bill provides an exception to this rule for those cases where the arbitrator determines the fee is excessive by more than \$5,000. In that case, the arbitrator has the discretion to increase the municipality's share of the cost of arbitration.

There are one Second Class A Cities (Scranton), 53 Third Class cities, 958 Boroughs, 93 First Class townships, 1,454 Second Class Cities, and 1 Town (Bloomsburg) subject to the provisions of this bill.

The effective date is immediate.

ANALYSIS:

The bill gives municipalities, other than Philadelphia or Pittsburgh who are not covered by the Pennsylvania Municipalities Planning Code, the option of adopting a new fee structure to recover costs of reviewing conditional use zoning applications. For those municipalities that adopt such ordinances, it would provide them with the potential to recover the cost of hiring consultants to review conditional use applications. Not all municipalities may adopt such ordinances. Of those that do, some may never see a conditional use application requiring the hiring of a consultant to review the application.

For those circumstances where the governing body of the municipality deems it necessary to hire a consultant, this bill would enable the municipality the ability to recover the consultation cost. The bill limits the fees to the rates charged by the consultants, thus preventing the municipality from gaining any revenue beyond the cost of consultation.

The Department of Community and Economic Development does not collect data, nor has any other source been identified, on the number of conditional use applications filed or on the cost for hiring outside experts. Discussions with local government associations, however, reveal that these consultant costs will vary widely depending on the complexity of the conditional use application. The cost also will vary throughout different regions of the state.

Municipalities may be required to pay fifty percent, or more, for the cost of arbitration if an applicant challenges a fee amount charged for reviewing an application and the arbitrator determines that the fee charged was excessive. In these cases, it is assumed that the municipality's share of the cost of arbitration will be less than the amount recovered from the application review fee. The municipality, therefore, would still realize a revenue increase.

To summarize the fiscal impact, the revenue gained due to this bill will vary for each municipality. The low end of the range is zero because some municipalities may not adopt an ordinance as enabled by this bill, other municipalities may not see conditional use applications, and yet other municipalities may not require the hiring of outside consultants to review such applications. For those cases where the hiring of an outside consultant is necessary or desirable, there is insufficient data and too much variance to forecast an average or maximum potential revenue gain.

The following entities were consulted in preparation of this fiscal note: the Department of Community and Economic Development, the Local Government Commission, the Pennsylvania Association of Boroughs, and the Pennsylvania State Association of Township Supervisors.

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House Appropriations Committee, (D)

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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.*