HOUSE COMMITTEE ON APPROPRIATIONS

2009-10 Legislative Session

FISCAL NOTE

HOUSE BILL: 2693 **PRINTER'S NO:** 4383 **PRIME SPONSOR:** Baker

As Amended by A09500

FISCAL IMPACT SUMMARY	**FY 2010/11**	**FY 2011/12**
Expenditure Increase/(Decrease):		
Restricted Revenue Account—Public Utilities	$551,000	$933,000
Estimated Revenue Increase/(Decrease):		
General Fund	$0	$0[a]
Restricted Revenue Account—Public Utilities from assessments on non-public utility operators	$0	$933,000
Natural Gas Pipeline Safety Enforcement Grant (Federal Allocation)	*$0*	*$4,112[b]*

[a]Although the bill increases civil penalties allowing for increased revenue, historical data suggest increased revenue will be unlikely .
[b]Potential increase assuming Congressional appropriations remain the same and the U.S. Pipeline and Hazardous Materials Safety Administration follows through with its pipeline safety scoring system for allocation to the states.

OVERVIEW:

Summary

This bill adds a new Chapter 32 to Title 66 (Public Utilities), Pa.C.S., permitting the Public Utility Commission (PUC) to regulate non-public utility pipeline operators in the Commonwealth. This bill also amends §3301(c) of Title 66 (Public Utilities), Pa.C.S., on civil penalties for gas pipeline safety violations. Current law allows the Public Utility Commission (PUC) discretion in fixing such penalties up to maximum amounts. This bill would increase the maximum amounts from $10,000 to $100,000 for each day each violation exists and from $500,000 to $1,000,000 for any related series of violations. This change would bring Pennsylvania in compliance with Federal standards.

The bill, as amended in the Committee on Appropriations, also increases the solar share requirement for electric distribution companies and electric generation companies pursuant to the Alternative Energy Portfolio Standards Act (2004 Act No. 213).

Background on Natural Gas Pipeline Safety Enforcement

The United States Department of Transportation, Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety (OPS) administers a natural gas pipeline safety program. The PUC is certified by OPS to enforce federal regulations pursuant to the Natural Gas Pipeline Safety Act of 1968 (Public Law 90-481). The PUC is charged with the duty to inspect facilities and investigate all incidents and accidents. Also, the Federal law requires all regulated utilities to adhere to safety standards in storage and distribution of natural gas.

The Public Utility Commission receives funding from OPS to enforce the regulations of Public Law 90-481, which is additionally appropriated by the General Assembly pursuant to Act 117 of 1976. For FY 2010/11, the PUC Budget Act (Act 9A of July 6, 2010) provides a Federal appropriation of $1,501,000 for "Natural Gas Pipeline Safety - to enforce the regulations of the Natural Gas Pipeline Safety Act."

OPS allocated a $30,500,000 in CY 2009 and $36,459,000 in CY 2010 to all the states, who in turn are required to provide matching funds. The state match to this federal program is part of the general government operations appropriation to the PUC. For FY 2010/11, Act 9A appropriates $56,003,000 in state funds for the general government operations the Public Utility Commission. The PUC Request for Approval of Federal Funds (RAFF) form for FY 2010/11 shows state matching funds of $2,029,000, which is included as part of the state GGO line item. The PUC is funded out of a restricted revenue account based on assessments on entities that the PUC regulates. The PUC employs eight natural gas inspectors and one supervisor.

Federal funding may be up to eighty-percent of a state's natural gas safety enforcement budget, contingent upon available funds. For CY 2008, the maximum amount funded by the Federal government for any state was 39.771% of the budget. Pennsylvania received only 38.975% because it received 98 out of 100 possible points on an OPS scoring system.

For CY 2009, the Pipeline Safety 2009 Natural Gas Scoring Document, issued by the Pipeline and Hazardous Materials Safety Administration, gave Pennsylvania 97 points out of 100 possible points and allocated $797,932 to Pennsylvania for pipeline safety enforcement, representing 59.19% of a total approved budget of $1,348,186. The maximum percent of funding a state could have received was 61.02%. The scoring system allows for a two point deduction if a state does not have a maximum civil penalty of $100,000 per day per incident, up to $1,000,000 per related series of violations. The deduction is reduced to just one point if steps were taken by the state to adopt legislation to comply with the federal standards.

Based on this scoring system, Pennsylvania should have received a one point deduction in CY 2009 because §3301(c) does not meet federal standards and this provision on increasing the fines will to bring the civil penalty into compliance. OPS, however, did not implement the point deduction. The PUC is concerned, however, that OPS will not be as gracious next time and will deduct a point for CY 2010 if §3301(c) is not so amended.

Civil Penalties Assessed and Collected

Since 2006, the Public Utility Commission collected $5,500 in civil penalties from three settlements pursuant to §3301(c). These amounts are deposited in the General Fund pursuant to §3315. The three settlements are as follows:

(1) UGI Utilities, Docket No. M-2008-2036549, of which UGI agreed to deposit $40,000 in its hardship fund to help low income customers but no civil penalty was paid pursuant to §3301(c).

(2) UGI Utilities, Docket No. C-20066664, of which $5,000 was collected in civil penalties pursuant to §3301(c).

(3) National Fuel Gas Distribution Company, Docket No. M-2008-2037613, of which $500 was collected pursuant to §3301(c).

The last time civil penalties in §3301(c) were increased was June 15, 1992, pursuant to Act 27 of April 16, 1992.

Regulation of Pipeline Operators
The bill expands the power of the Public Utility Commission to regulate and inspect non-public utility gas lines and operators in addition to its power now to do so with utility-owned pipelines.

Solar Energy Portfolio Standards
The new solar energy portfolio standards are summarized in the table below:

Reporting Year	Time Period			Current Law: Photovoltaic only	H.B.2693: Photovoltaic, & Solar Thermal	Increase due to H.B.2693
1	June 1, 2006	to	May 31, 2007	0.0013%	0.0013%	0.0000%
2	June 1, 2007	to	May 30, 2008	0.0030%	0.0030%	0.0000%
3	June 1, 2008	to	May 31, 2009	0.0063%	0.0063%	0.0000%
4	June 1, 2009	to	May 31, 2010	0.0120%	0.0120%	0.0000%
5	June 1, 2010	to	May 31, 2011	0.0203%	0.0203%	0.0000%
6	June 1, 2011	to	May 30, 2012	0.0325%	0.0504%	0.0179%
7	June 1, 2012	to	May 31, 2013	0.0510%	0.0752%	0.0242%
8	June 1, 2013	to	May 31, 2014	0.0840%	0.1218%	0.0378%
9	June 1, 2014	to	May 31, 2015	0.1440%	0.2016%	0.0576%
10	June 1, 2015	to	May 30, 2016	0.2500%	0.3000%	0.0500%
11	June 1, 2016	to	May 31, 2017	0.2933%	0.4100%	0.1167%
12	June 1, 2017	to	May 31, 2018	0.3400%	0.5000%	0.1600%
13	June 1, 2018	to	May 31, 2019	0.3900%	0.6200%	0.2300%
14	June 1, 2019	to	May 30, 2020	0.4433%	0.7500%	0.3067%
15	June 1, 2020	to	May 31, 2021	0.5000%	0.9700%	0.4700%
16	June 1, 2021	to	May 31, 2022	0.5000%	1.3500%	0.8500%
17	June 1, 2022	&	thereafter	0.5000%	1.5000%	1.0000%

Effective Date
The effective date is sixty days.

ANALYSIS:

Increase in Federal Funds
The U.S. Office of Pipeline Safety (OPS), according to the PUC, may start deducting a point on Pennsylvania's pipeline safety enforcement score for being out of compliance with civil penalties. This would have the impact of reducing Federal funds for natural gas pipeline safety enforcement. H.B. 2693, therefore, has the potential to increase Pennsylvania's allocation.

Assuming the same level of funding in CY 2011 as in CY 2009, Pennsylvania's allocation could drop from $797,932 to $789,709 *if* OPS follows through with its scoring system that allows for up to two points to be deducted for having civil penalties out of compliance with Federal standards. This estimate was calculated using the percent funding difference between state scores of 97 points and 96 points, which is what Pennsylvania's score would be reduced to, *ceteris paribus*, if it is still out of compliance with the federal standard for civil penalties. Because this difference of $8,223 would be for the entire CY 2010, this note allocates half the difference, i.e., $4,112, to FY 2011/12. For future fiscal years, the revenue increase would be the full $8,223. These are estimates, of course, subject to the assumptions described above, which will vary depending on the total amount appropriated by Congress and decisions made by OPS, including whether OPS will implement its scoring point deduction for non-compliant civil penalties in future years.

Increase in Revenue from Civil Penalties

Civil penalty revenue pursuant to §3301(c) has been sporadic and insignificant. No revenue was collected in 2006 or 2007. In the current fiscal year, only $5,500 has been collected from two out of three cases settled. In neither case where the PUC imposed penalties did it impose the maximum amount. Based on historical experience, therefore, it is unlikely that increasing the maximum allowable civil penalties will result in any additional revenue to the General Fund.

Regulation of Pipeline Operators

According to data provide by the Public Utility Commission, expanding its power to regulate and inspect non-public utility gas lines and operates will be approximately $551,000 for the second of FY 2010/11 and $933,000 for FY 2011/12. This estimate includes expenses for gas safety inspectors and a supervisor, as well as 2 administrative / clerical support persons.

The following table summarizes the Commission's cost estimate:

Number	Item Description	Estimated Cost FY 2010/11	Estimated Cost FY 2011/12
5	Gas Safety Inspectors- PG 7 ($91,500 salary & fringe)	$228,650	$457,300
1	Gas Safety Supervisor- PG 9 ($103,000 salary & fringe)	$51,380	$102,760
1	Clerk Typist 2- PG 3 ($42,300 salary & fringe)	$21,250	$42,500
1	Admin. Officer / Planner- PG 7 ($91,500 salary & fringe)	$45,730	$91,460
	Total Personnel Costs	**$347,010**	**$694,020**
	Training- 5 Inspectors	$50,000	$100,000
	Inspection Equipment- 5 Inspectors & 1 Supervisor	$12,600	$25,200
	Safety Clothing- 5 Inspectors & 1 Supervisor	$2,000	$4,000
6	Computers & Printers- 5 Inspectors & 1 Supervisors	$12,000	$24,000
6	Vehicles- DGS Leasing- 5 Inspectors & 1 Supervisor	$30,000	$60,000
6	Cell Phones & Service	$12,600	$25,200
	Total Operational Costs	**$119,200**	**$238,400**
	Projection of current PUC staff time to start up efforts	**$84,000**	
	Total Personnel & Operational Costs	**$550,210**	**$932,420**

The PUC is funded through assessments on the utilities, and this bill allows the Commission to assess fees on non-public utility gas line operators to recuperate its cost for regulation of those entities. The bill specifies that the fee would be based on intrastate regulated transmission, distribution, and regulated on-share gathering pipeline miles. This provision will enable the Commission to recover its expenses. Because of the timing of collecting the assessments, the Commission will not be able to recover its expenses for FY 2010/11.

Solar Energy Portfolio Standards

There are too many variables to accurately forecast the impact of the solar provisions of the bill on electric prices. For purposes of fulfilling required minimum generation of solar photovoltaic electric energy, this bill expands the definition to include solar thermal technology, making it easier to fulfill the solar requirement. The impact on future electricity prices due to the solar provisions of the bill will depend significantly on how high the cost of traditional sources rise relative to how far solar prices fall, which is not possible to predict with any degree of certainty.

Sources

The Public Utility Commission and the United States Department of Transportation, Pipeline and Hazardous Materials Safety Administration, Office of Pipeline Safety were helpful in providing information used in this fiscal note.

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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.*