



# HOUSE COMMITTEE ON APPROPRIATIONS

2009-10 Legislative Session

## FISCAL NOTE

SENATE BILL: 747

PRINTER'S NO: 1897

PRIME SPONSOR: Rafferty

FISCAL IMPACT SUMMARY	FY 2009/10	FY 2010/11
<b>Expenditure Increase/(Decrease):</b>		
Motor License Fund	\$0	\$0
General Fund	\$0	\$0
<b>Revenue Increase/(Decrease):</b>		
Motor License Fund	\$0	See analysis
General Fund	\$0	See analysis

### OVERVIEW:

Senate Bill 747 repeals §2003(e)(7) of the Administrative Code (1929, P.L. 177, No. 175), which specifies the procedure by which the Department of Transportation (PennDOT) may sell land acquired by it that is no longer needed, and it creates a new freestanding act to effectuate the same with one major difference.

First, current law requires PennDOT to offer unwanted land for its fair market value initially to other public agencies, defined to include authorities and political subdivisions, except for Second Class A counties not governed under a home rule charter. This exception applies only to Bucks and Montgomery counties. The bill removes this exception, giving Bucks and Montgomery counties the same first opportunity to purchase land from PennDOT for a public purpose.

Current law specifies that revenue from land sold that was originally acquired with funds from the Motor License Fund shall be deposited in the Fund. This bill requires the same. According to PennDOT, when federal funds are used to acquire land, and the land or portions of the land are no longer needed, the Federal Highway Administration allows PennDOT to retain the proceeds as long as it is used for transportation purposes pursuant to U.S. Code 23.

There are some circumstances where property was acquired by the General Services Administration, the predecessor to the Department of General Services (DGS), using General Fund money for transportation purposes. On occasion, DGS sells these properties. Proceeds from selling any such land would be deposited in the General Fund.

The bill also stipulates that "public purpose" shall include the preservation of open space. According to PennDOT, the department already interprets current law as allowing for preservation of open space despite the fact that current law does not specifically state it as such. By being more explicit, however, this change will underscore the importance of preserving open space, which may impact the emphasis PennDOT will give open space preservation when seeking to dispose of surplus land, and it will guarantee no future change in PennDOT policy.

For the past five fiscal years, i.e., FY 2004/05 through FY 2008/09, PennDOT had sold 209 acres of land in 65 transactions bringing in a total \$3,180,000 to the Motor License Fund. The annual averages are 13 transactions, \$636,000, and 41.8 acres.

The Department of Transportation was created by Act 120 of 1970, which amended the Administrative Code, charging the department to develop and maintain comprehensive and efficient transportation systems. In addition to highways and bridges, its responsibilities include public transportation, rail, aviation, ports, and waterways. Among its power enumerated in Article XX of the Administrative Code, PennDOT has the power of eminent domain.

The effective date is sixty days.

#### **ANALYSIS:**

Removing the exceptions for Bucks and Montgomery counties may possibly, in limited circumstances, increase revenue to the Commonwealth because of the potential difference in price. Land offered to public agencies is priced at fair market value, but land offered to persons from whom the land was originally acquired is offered at the usually lower price of the original acquisition price less costs, expenses, and reasonable attorney fees. Therefore, for those limited circumstances when Bucks or Montgomery County may be interested in some surplus land from PennDOT, this bill may have the impact of increased revenue. The amount of the increase will depend on the number and specifics of any such transactions, which is not possible to quantify, but in all likelihood will not be significant.

Any revenue received from the sale of land will be deposited into the Motor License Fund for those circumstances when funds from the Motor License Fund or the Federal Highway Trust Fund were originally used to purchase the land. If any other fund was used to acquire the land, then the money would be deposited in the General Fund pursuant to the provisions of §302 of the Fiscal Code (Act of Apr. 9, 1929, P.L. 343, No. 176). According to PennDOT, most land it acquires and sells is due to highway or road projects and was probably purchased using money from the Motor License Fund or federal funds.

The bill explicitly states that the preservation of open space is a public purpose. Because this explicit language does not change current practice, this change has no fiscal impact.

This bill does not adversely impact administrative costs for PennDOT or DGS. The acquisition and selling of land are ongoing functions of these departments.

The following sources were consulted in the preparation of this fiscal note: the Department of Transportation and the Department of Revenue.

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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.*