



# HOUSE COMMITTEE ON APPROPRIATIONS

2009-10 Legislative Session

## FISCAL NOTE

SENATE BILL: 1155

PRINTER'S NO: 2232

PRIME SPONSOR: Eichelberger

FISCAL IMPACT SUMMARY	FY 2010/11	FY 2011/12
<b>Expenditure Increase/(Decrease):</b>		
General Fund	\$10,000,000	\$10,000,000
<b>Revenue Increase/(Decrease):</b>		
Commonwealth and Local Government Funds (See Analysis for detailed fund information)	\$120,242,000	\$326,113,000
<b>Net Revenue Increase/(Decrease):</b>		
Commonwealth and Local Government Funds (See Analysis for detailed fund information)	\$110,242,000	\$316,113,000

### OVERVIEW:

Senate Bill 1155 amends Title 16 (Counties) by creating the "County Officer and Employee Fiscal Security Act" which, according to the Local Government Commission (LGC), codifies, standardizes, and updates provisions related to bonds or insurance for elected and appointed county officers and county employees who have fiduciary duties.

This bill requires counties to obtain security coverage and additional coverage for county officers and employees. Additional coverage shall be in the form of adequate insurance indemnifying against the loss of money and property through robbery, burglary and larceny and shall be provided for each county officer or employee who is required to receive, account for or hold any money and other property by virtue of the officer's or employee's office or employment. Each county shall obtain official security in the form of bonds, a blanket bond or a crime-fidelity insurance policy. Counties shall also obtain security coverage for county officers and employees acting as agents of a commonwealth agency.

The governing body shall establish procedures to annually determine the form and amount of security that will be reasonably sufficient to protect against the risks of loss. The premiums and costs for all forms of required security shall be paid by the county.

Senate Bill 1155 also establishes a natural gas severance tax levied on producers who sever natural gas for sale, profit or commercial use, beginning January 1, 2011. The following would be exempt from the severance tax:

- Units severed from a stripper well, which produces less than 60,000 cubic feet per day.
- Coal bed methane.
- Units sold to the surface owner for use in manufacturing.
- Units provided free of charge to the surface owner.

The base rate of tax imposed by this amendment is 39 cents per unit severed at the wellhead. The rate shall never be less than the base rate. An annual adjustment to the tax rate shall apply if 7% of the average New York Mercantile Exchange (NYMEX) Henry Hub settled price is greater than 39 cents. The base rate adjustment will be calculated and published annually by the Secretary of Revenue according to the provisions of this amendment. The calculation of the adjustment is 50% of the difference between 7% of the NYMEX Henry Hub price and 39 cents. Producers may not recover any portion of the tax from royalty owners.

This amendment establishes the Natural Gas Severance Tax Account, the Local Government Services Account, and the Oil and Gas Environmental Disaster Recovery Account as restricted accounts within the General Fund.

Transfers and distributions of the revenue are as follows:

- During fiscal years 2010-2011, 2011-12 and 2012-13, the State Treasurer shall transfer the first \$75 million of revenue deposited into the Natural Gas Severance Tax Account as follows:
  - \$5 million is appropriated to the Department of Labor and Industry for job training programs for skills identified by the Department with the natural gas producing industry.
  - \$70 million to the General Fund.
- The remaining revenue in the account shall be distributed as follows:
  - 40% to the General Fund.
  - 32% to the Environmental Stewardship Fund.
  - 16% to the Local Government Services Fund.
  - 1.6% to the Hazardous Sites Cleanup Fund.
  - 2.4% to the Conservation District Fund.
  - 1.6% to the Pennsylvania Game Commission.
  - 1.4% to the Pennsylvania Fish and Boat Commission.
  - 1.6% to the Department of Public Welfare to provide cash and crisis grants to low-income households under the Low Income Home Energy Assistance Program (LIHEAP).
  - 1.6% to the Oil and Gas Environmental Disaster Recovery Account.
  - 0.8% to the Department of Environmental Protection for State dam removal, restoration and repair projects.
  - 1.0% to the Environmental Hearing Board

The Local Government Services Account shall consist of quarterly distributions to be used for municipal roads and bridges, preservation and improvement of municipal water supplies, maintenance and capital improvements to municipal waste and sewage systems, preservation of surface waters, and other lawful purposes related to the health, welfare and safety consequences of severing natural gas. The distributions are as follows:

- 30% to counties with producing sites.
- 45% to municipalities with producing sites.
- 15% to municipalities with no producing sites located in a county with producing sites.
- 10% to the Pennsylvania Emergency Management Agency to be distributed to fire and ambulance services in counties with producing sites.

Distributions to municipalities shall not exceed 50% of the municipality's total budget for FY 2010/11, adjusted annually for inflation. Any funds not distributed to the municipalities because of budgetary limitations shall be distributed to the county to be used for grants to municipalities to defer the cost of regional cooperation endeavors undertaken by the municipalities within the county.

This amendment establishes the Marcellus Shale Job Creation Tax Credit, which would allow a company to claim up to \$1,000 per new job created. The credits can be applied against corporate net income tax, capital stock and franchise tax, the personal income tax (for S corporations), or any combination thereof. The availability of tax credits is capped at \$10 million per fiscal year.

**ANALYSIS:**

According to the LGC, Senate Bill 1155 originated in 2006 when, at the request of the Pennsylvania Recorder of Deeds Association, the LGC authorized its staff to become part of a working group to review current laws related to bonding and financial security for elected and appointed officials who act in a fiduciary capacity. In addition to staff members from the LGC, the working group consisted of representatives of the County Commissioners Association of Pennsylvania, the Pennsylvania Recorder of Deeds Association, on behalf of both itself and the Pennsylvania State Association of Elected Officials, the Pennsylvania Department of State, the Pennsylvania Department of Revenue, the Pennsylvania Department of the Auditor General, the Pennsylvania Game Commission, and the Pennsylvania Fish and Boat Commission.

Also according to the LGC, the amounts of bonds stipulated for various county officials as provided in law have not been increased in approximately 50 years and for the most part are insufficient.

According to the Department of State, there would be minimal savings among all the counties as a result of not having to pay for filing fees. The actual savings are not quantifiable as each county varies in its needs for coverage.

Senate Bill 1155 would generate severance tax revenue of approximately \$120.2 million in fiscal year 2010-11 and \$326.1 million in fiscal year 2011-12. These estimates are based on natural gas production data and estimated Henry Hub prices provided by the Department of Revenue and applied according to calculations provided in the amendment. The 2010-11 estimate has been adjusted for cash flow to reflect the timing of anticipated collections within the fiscal year. The revenue generated by the severance tax will be offset by a decrease of \$10 million each year per the Job Creation Tax Credit established in this amendment, which will be applied against General Fund revenue sources. Therefore General Fund net revenue and total net revenue associated with this amendment is reduced by \$10 million each year.

The table below shows the calculation of total revenue generated by the severance tax. Estimate is shown in \$ thousands:

Year	Mcf Production Assumption	Henry Hub Price	Total Tax Liability at \$0.39 and 7%
2007	182,277,000	\$ 6.96	\$ 79,947
2008	198,295,000	\$ 8.86	\$ 100,159
2009	185,929,230	\$ 3.54	\$ 72,512
2010	503,831,575	\$ 4.64	\$ 196,494
2011	716,879,874	\$ 5.93	\$ 288,580
2012	858,565,490	\$ 6.53	\$ 363,645
2013	1,065,509,587	\$ 6.60	\$ 453,907
2014	1,251,946,487	\$ 6.70	\$ 537,711
2015	1,464,898,578	\$ 6.86	\$ 637,377
<b>2010-11, Effective January 1, 2011</b>			<b>\$ 144,290</b>
		<b>2011-12</b>	<b>\$ 326,113</b>
		<b>2012-13</b>	<b>\$ 408,776</b>
		<b>2013-14</b>	<b>\$ 495,809</b>
		<b>2014-15</b>	<b>\$ 587,544</b>

The table below shows the total and net revenue effect on all applicable funds. Calculations for the first three fiscal years shown include a transfer of \$70 million to the General Fund. Cash flow adjustments affect fiscal year 2010-11 to reflect actual collections expected to be booked in the fiscal year (tax liabilities for June 2011 will be collected in the 2011-12 fiscal year). Estimate is shown in \$ thousands:

Fund and Distribution		FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15
<b>Total Revenue, Cash Flow Adjusted</b>		<b>\$ 120,242</b>	<b>\$ 326,113</b>	<b>\$ 408,776</b>	<b>\$ 495,809</b>	<b>\$ 587,544</b>
General Fund	40%	\$ 88,097	\$ 170,445	\$ 203,510	\$ 198,324	\$ 235,018
Job Training		\$ 5,000	\$ 5,000	\$ 5,000	\$ -	\$ -
Local Share	16%	\$ 7,239	\$ 40,178	\$ 53,404	\$ 79,329	\$ 94,007
Environmental Stewardship	32%	\$ 14,477	\$ 80,356	\$ 106,808	\$ 158,659	\$ 188,014
Conservation District Fund	2.4%	\$ 1,086	\$ 6,027	\$ 8,011	\$ 11,899	\$ 14,101
Hazardous sites Cleanup Fund	1.6%	\$ 724	\$ 4,018	\$ 5,340	\$ 7,933	\$ 9,401
Game Commission	1.6%	\$ 724	\$ 4,018	\$ 5,340	\$ 7,933	\$ 9,401
Fish and Boat Commission	1.4%	\$ 633	\$ 3,516	\$ 4,673	\$ 6,941	\$ 8,226
LIHEAP	1.6%	\$ 724	\$ 4,018	\$ 5,340	\$ 7,933	\$ 9,401
Disaster recovery	1.6%	\$ 724	\$ 4,018	\$ 5,340	\$ 7,933	\$ 9,401
Dam projects	0.8%	\$ 362	\$ 2,009	\$ 2,670	\$ 3,966	\$ 4,700
Environmental Hearing Bd.	1.0%	\$ 452	\$ 2,511	\$ 3,338	\$ 4,958	\$ 5,875
Job Creation Tax Credit		\$ (10,000)	\$ (10,000)	\$ (10,000)	\$ (10,000)	\$ (10,000)
<b>General Fund Net Revenue</b>		<b>\$ 78,097</b>	<b>\$ 160,445</b>	<b>\$ 193,510</b>	<b>\$ 188,324</b>	<b>\$ 225,018</b>
<b>Total Net Revenue</b>		<b>\$ 110,242</b>	<b>\$ 316,113</b>	<b>\$ 398,776</b>	<b>\$ 485,809</b>	<b>\$ 577,544</b>

**PREPARED BY:** Wendy Lewis, Budget Analyst  
House Appropriations Committee, (D)

**DATE:** September 29, 2010

**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.*