



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 1438

PRINTERS NO. 2085

PRIME SPONSOR: Gingrich

COST / (SAVINGS)

FUND	FY 2011/12	FY 2012/13
General Fund	\$0	\$0
2 nd through 8 th Class County Funds	\$0	\$0

SUMMARY: Creates the “County Officer and Employee Fiscal Security Act” which provides for bonds or insurance for elected and appointed county officers and county employees who are responsible for money or property. This legislation would take effect immediately.

ANALYSIS: This legislation would update and revise the bonding requirements for elected and appointed county officers and county employees who are responsible for money or property as part of their duties or employment. This legislation applies to second through eighth class counties, including counties which have adopted a home rule charter or optional plan. This legislation does not include county treasurers in their capacity as tax collectors under the Local Tax Collection Law.

Each county shall obtain financial security in the form of a bond, blanket bond or crime-fidelity insurance to protect the county/ taxpayers from a loss of money or property through misconduct. This misconduct includes internal activities (embezzlement, theft or forgery) or losses from external sources (robbery, burglary or larceny). The bill contains a list of county elected and appointed officials who shall require financial security. This legislation also requires financial security for other county officials, deputies and employees who receive or hold money or property as part of their office or employment. Finally, the bill also requires financial security for county officials or employees who act as agents for the Commonwealth or the courts.

The county shall be primarily liable for a claim for the loss of money and property which a county officer or employee is required to receive, account for or hold by virtue of the officer's or employee's office or employment, to the extent that the loss is or could have been the subject of required security under this legislation. The county shall not be primarily liable for a claim for the loss of money and property to the extent that recovery of the loss can be obtained from other insurance or bond protection provided by the Commonwealth agency or any other person or entity asserting a claim. Nothing in this legislation shall be deemed to restrict or diminish a county's right to reimbursement or to receive restitution for the loss.

The form and contents of a bond, a blanket bond or insurance shall be approved by the county commissioners, after review by the county solicitor and consultation with the county risk manager, if any. In cases in which required security is being provided for a county officer or employee who is acting as an agent for a Commonwealth agency or the courts, the Commonwealth agency or representatives of the courts may review and comment on the form of the required security. The county commissioners may refer to sample forms that may be made available by the Department of State in the approval process.

The county commissioners shall establish a procedure pursuant to which the county shall annually determine the form and amount of required security that will be reasonably sufficient to protect against the risks of loss in compliance with this legislation. The county commissioners may appoint a risk manager who, at the request of the county commissioners, shall compile and submit information relevant to the determination of an amount of required security.

To determine the amount of security for a county officer or employee who is acting as an agent for a Commonwealth agency or the courts, the county commissioners may, or the risk manager shall, if directed by the governing body, provide written notice to the secretary or head of the Commonwealth agency or courts. The Commonwealth agency or courts may provide input concerning the amount of security it believes is reasonably sufficient to protect against the risks of loss.

The county commissioners shall direct the chief clerk to present the documents evidencing required security to the recorder of deeds for recording. No tax, fee or other charge shall be imposed for the recording of documents in compliance with this legislation. Following the recording, the documents shall be returned to the chief clerk who shall maintain the custody of these documents on behalf of the governing body.

In compliance with Section 809 (regarding commissions for elected officials) of the Administrative Code of 1929, it shall be sufficient for a copy of the recorded documents evidencing the required security for county officers to be filed with the Department of State in accordance with deadlines established by the department. No tax, fee or other charge shall be imposed as a result of the issuance of commissions to elected county officials, and no fee may be imposed for the recording of required security documents or commissions.

The premiums and costs for all forms of required security for county officials and employees shall be paid by the county. The requirement that a county acquire and pay the premiums and costs for required security shall not relieve a Commonwealth agency on whose behalf a county officer or employee is acting as an agent from an obligation, imposed by law, to procure insurance or bonding protection.

A county may, at any time after the effective date of this section, obtain required security in accordance with this legislation. A county shall have in place required security prior to the time that any elected county official takes office after the municipal election next following the effective date of this section. Bonds and insurance which, on the effective date of this section, cover county officers and employees, shall remain in force and effect until required security is purchased.

FISCAL IMPACT: This legislation would have no adverse impact on Commonwealth funds. According to the Department of State, this legislation would eliminate the fee revenue for the Department for filing and processing public official bonds and commissions but would be offset by savings in staff time, where a simplified bonding process would eliminate the need for one staff member to spend 37.5 hours per week for three months on processing bonds and commissions in election years.

This legislation would have no adverse impact on 2nd through 8th class county funds. According to the County Commissioners Association of Pennsylvania, this legislation should not cost counties more money because many, if not all counties, purchase crime insurance at limits much higher than the antiquated bond levels presently set forth in The County Code.

PREPARED BY: Tim Rodrigo
House Appropriations Committee (R)

DATE: September 29, 2011

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.