

Legislative  
Budget  
&  
Finance  
Committee



*A Joint Committee of the Pennsylvania General Assembly*

# 2017 Annual Report

*January 2018*



# Legislative Budget and Finance Committee

A JOINT COMMITTEE OF THE PENNSYLVANIA GENERAL ASSEMBLY

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*Vice Chairman*  
SENATOR  
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CHRISTOPHER LATTA

January 2018

TO: All Members of the Pennsylvania General Assembly

This Annual Report of the Legislative Budget and Finance Committee summarizes the ten reports and performance audits completed by the Committee during calendar year 2017 and lists the current projects before the Committee. A list of all reports completed since 1982, categorized by subject area, begins on page 28. The report also describes the duties and responsibilities of the Committee and provides information on the Committee's staff and operations.

The Committee welcomes questions and comments regarding its activities and this report.

Respectfully submitted,

*Robert B. Mensch*

Chairman

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LEGISLATIVE BUDGET AND FINANCE COMMITTEE**

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## STATUTORY COMPOSITION

### **STATUTORY COMPOSITION**

Act 1959-195 (46 P.S. §70.1 et. seq.) created the Legislative Budget and Finance Committee as a bipartisan, bicameral legislative agency. The act specifies that the Committee is to consist of 12 members, six Senators and six Representatives. The Committee is divided equally between both parties in the House and Senate.

The President Pro Tempore of the Senate, the Speaker of the House of

Representatives, and Majority and Minority Leaders of each House are designated by law to be members of the Committee, but they may designate other members to serve in their stead. The President Pro Tempore of the Senate and the Speaker of the House of Representatives appoint three additional members of their respective Houses, at least two of whom are from the Minority party.

The Committee elects its own Chairman, Vice Chairman, Secretary, and Treasurer.

### **2017 OFFICERS AND MEMBERS**

#### OFFICERS

Senator Robert B. Mensch .....	Chairman
Senator James R. Brewster.....	Vice Chairman
Representative Robert W. Godshall .....	Secretary
Representative Jake Wheatley .....	Treasurer

#### MEMBERS

##### SENATORS

James R. Brewster  
Michele Brooks  
Thomas McGarrigle  
Robert B. Mensch  
Christine M. Tartaglione  
John Yudichak

##### REPRESENTATIVES

Stephen E. Barrar  
Jim Christiana  
Scott Conklin  
Robert W. Godshall  
Peter Schweyer  
Jake Wheatley

## ROLE AND RESOURCES

### **STATUTORY CHARGES**

Under Act 1959-195, as amended by Act 1961-645, the Legislative Budget and Finance Committee (LB&FC) is empowered to review Commonwealth revenues and expenditures to identify unnecessary expenditures, promote economy in state government, and ensure that state funds are expended in accordance with legislative intent and law.

The Committee is charged to report “from time to time, to the members of the Legislature and . . . the standing committees of the Senate and House of Representatives with respect to any of its findings or recommendations . . . .”

Act 1986-93, as amended by Act 1998-166, requires the LB&FC to conduct a performance audit to examine the PGC’s compliance with its strategic plan every three years. The next report is due in 2018.

Act 1995-17 requires that the Pennsylvania State Police establish a system for conducting instant background checks on prospective firearms purchasers. The act also establishes a \$2 instant background check fee and a \$3 surcharge on each firearms sale, and requires the LB&FC to assess the adequacy of these fees every five years. The next report is due in 2020.

Act 2004-159 amends the Fish and Boat Code to implement a new license fee structure and requires the LB&FC to conduct a performance audit of the Pennsylvania Fish and Boat Commission every three years. The next report is due in 2019.

Act 2012-79 directed the Legislative Budget and Finance Committee to con-

duct a performance audit of Pennsylvania’s Access to Justice Act (AJA) to determine if there is continuing justification for the activities and level of financial support provided for in the act. A summary of this study is included in this report.

Act 2013-90, an amendment to the Local Option Small Games of Chance Act, requires the LB&FC to conduct an annual study of the impact of tavern gaming on the State Lottery. A summary of this study is included in this report.

Three House resolutions required the LB&FC to study (1) the PA State Police’s cost for highway safety, (2) PA’s program for the beneficial use of sewage sludge by land application, and (3) the fees collected by county Recorders of Deeds. Summaries of these studies are included in this report.

Two Senate resolutions required the LB&FC to study (1) the overtime costs in the Department of Corrections and (2) the expenditures for compensation to state board and commission members. Summaries of these studies are included in this report.

Three studies were initiated by the Legislative Budget and Finance Committee Officers directing the staff to study (1) the FY 2015-16 grant expenditures, (2) the financial impact of charter schools on public school districts, and (3) Pennsylvania’s One Call system. Summaries of these studies are included in this report.

## **REPORT DEVELOPMENT**

The key steps involved in an LB&FC performance audit are outlined below.

### **Overview of Key Steps in the LB&FC Performance Audit Process**

#### **1. AUDIT ADOPTION PHASE**

- Audit project initiated by statutory mandate, resolution, or proposal by LB&FC member or other member of the General Assembly.
- Audit project formally adopted by LB&FC officers and/or full Committee.
- Audit assigned to LB&FC staff and incorporated into staff audit schedule.

#### **2. ADMINISTRATION AND PLANNING PHASE**

- Develop preliminary audit survey questionnaire.
- Develop audit scope and objectives.
- Develop preliminary survey work plans.

#### **3. PRELIMINARY SURVEY PHASE**

- Establish agency reference file.
- Conduct entrance conference.
- Review meeting minutes.
- Conduct initial interviews.
- Obtain audit perspectives (agency staff and "outsiders").
- Review prior reports.
- Test legal compliance.
- Test internal controls.
- Develop non-finding sections.
- Identify audit issues to pursue during fieldwork.

#### **4. FIELDWORK PHASE**

- Develop fieldwork audit plans.
- Focused audit activities conducted at central office and field locations.
- Data collection, analysis, and verification carried out in all finding areas.
- Develop draft findings and reference report.

#### **5. REPORT REFERENCING AND INTERNAL QUALITY REVIEW PHASE**

- Final referenced copy of draft report prepared and reviewed by audit team.
- Draft report reviewed by Executive Director and/or a project manager not previously involved in the audit for internal quality control review.
- Audit team makes necessary report adjustments.

#### **6. REPORT PRODUCTION, RELEASE, AND POST-RELEASE PHASE**

- Confidential draft report sent to the agency for their review.
- Agency response received and final report printed.
- Prepare oral presentation and press release.
- Meeting held and report discussed, released, and distributed.
- Audit files archived.

**STAFF RESOURCES**

At the end of 2017 the Legislative Budget and Finance Committee had a full-time staff complement of nine. The auditing staff includes persons with graduate degrees in public administration and

business administration. The staff also includes a person with a doctorate degree in social work, two attorneys, and a certified public accountant. The LB&FC organizational structure is shown on the following page.

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LEGISLATIVE BUDGET AND FINANCE COMMITTEE STAFF

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Terry Beam .....	Executive Secretary	Rick Jones, JD .....	Counsel
Patricia Berger, JD .	Senior Counsel/Project Manager	Christopher Latta .....	Project Manager
Louis Day .....	Analyst	Maryann Nardone, Ph.D. .	Project Manager
Philip Durgin* .....	Executive Director	Anne Witkonis .....	Analyst
Tomeka Jenrette.....	Secretary		

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Philip Durgin retired effective 12/31/17. Patricia Berger became the Executive Director and Chirstopher Latta became the Deputy Executive Director effective 1/1/18.

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**RESEARCH RESOURCES**

To support its research activity, the LB&FC staff maintains a research library. Library materials are also available for use by legislators and their staffs.

Finance Committee members and staff as well as recent information on Committee and staff activities, including links to videos of Committee meetings.

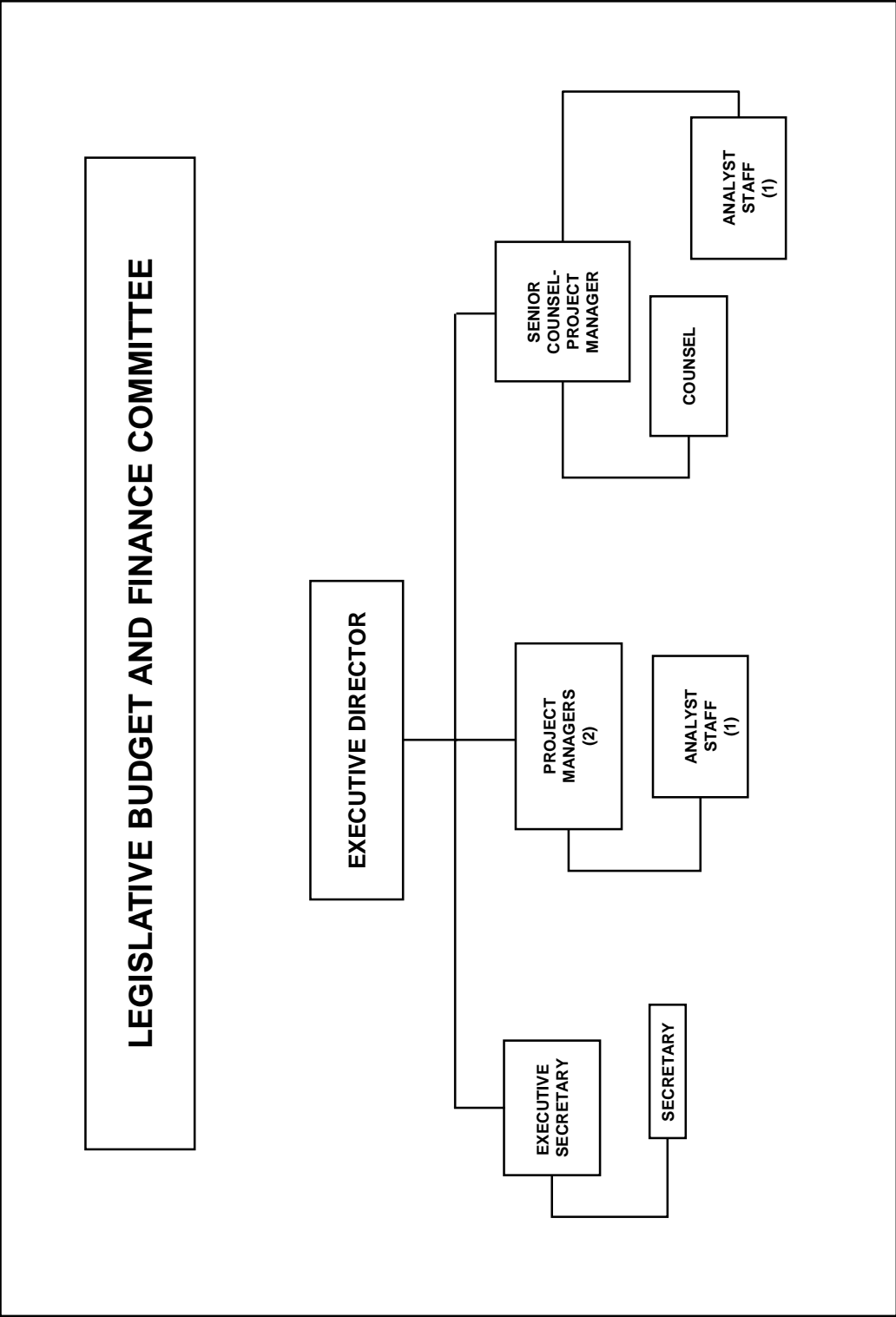
The LB&FC library includes financial, legislative, and legal resource documents. It also includes books on auditing standards and performance auditing and professional journals and newsletters. Also available are departmental budget presentations.

**EXPENDITURES**

During fiscal year 2016-17, the Committee spent \$1,469,344.

**LB&FC UPDATES AND CURRENT ACTIVITIES**

Links to one-page summaries of released reports as well as the full reports can be found on the LB&FC website (<http://lbfc.legis.state.pa.us>). The website also lists current Legislative Budget and





## SUMMARIES OF LB&FC REPORTS COMPLETED IN 2017

The LB&FC is charged with conducting informational and evaluative studies and performance audits as directed by the Committee and as mandated by the General Assembly. Further, the Committee is charged to:

. . . make reports, from time to time, to the members of the Legislature and, upon request, to the standing committees of the Senate and House of Representatives with respect to any of

its findings and recommendations...

Ten reports were completed and released in 2017. Summaries of these reports are located on the following pages. Copies of reports can be obtained by contacting our office at 717-783-1600 or 717-787-5487 (fax). Full reports and one-page fact sheets are also available for recent reports via the Committee's website at: <http://lbfc.legis.state.pa.us>.

## A Performance Audit of Pennsylvania's Access to Justice Act

**RELEASE DATE:** February 2017

**BACKGROUND:**

- Act 2012-79 directed the Legislative Budget and Finance Committee to conduct a performance audit of Pennsylvania's Access to Justice Act (AJA) to determine if there is continuing justification for the activities and level of financial support provided for in the act.
- This 75-page report is divided into six major sections plus appendices.

**SUMMARY OF FINDINGS:**

- **The AJA established a fund to provide civil legal aid to low income people through a fee on filings in state courts.** Of that fee, \$2 was dedicated to funding civil legal aid, an additional \$1 surcharge on certain state court filings was increased to \$2 in 2014. The funds are administered by Interest On Lawyers Trust Account Board (IOLTA) through a grant agreement with PLAN, Inc. Services are provided by eight regional and six specialty legal services programs (LSPs) located throughout the state that handle cases involving, e.g., family law, housing, employment and economic benefits for individuals whose family income does not exceed 125 percent of poverty guidelines (\$30,375 for a family of four in 2016). LSPs are prohibited from using AJA funds for political activity, fee-generating cases, defense of criminal

prosecutions, or where counsel is otherwise required to be provided.

- **AJA fees and surcharges represent 31 percent of total state and federal funding and have averaged \$10.4 million since FY 2010-11.** In 2014, the General Assembly replaced a temporary \$1 surcharge with a separate \$2 permanent fee, but the anticipated revenue increase did not occur due, in part, to on-line mortgage filings and a decrease in court actions. Temporary funding was provided by the Homeowners Assistance Settlement Act (HASA) which allocated \$2.1 million over a three-year period for legal assistance related to housing issues.
- **Legal Services Corporation (LSC) and IOLTA funding has decreased since FY 2010-11.** LSC funding, which accounts for 35 percent of total federal and state funding for legal aid in Pennsylvania, has decreased 16 percent and interest income from IOLTA has remained low due to low interest rates. State funding is approximately \$6.5 million less than the expected level had FY 2010-11 funding grown at the rate of inflation.
- **Less than 50 percent of eligible clients seeking services do not receive services.** Due to funding constraints, the level of services provided to clients may have declined, with more clients being served through brief services. Since FY 2010-11, total handled cases dropped from

100,000 to about 70,000; AJA-funded cases handled declined from 23,000 to about 17,000 in FY 2014-15.

- **Effectiveness measures for LSP services are generally positive.** Case resolution statistics where the outcome is known for FY 2014-15 show about 87 percent of the AJA-funded cases were successfully resolved and 13 percent were considered unsuccessfully resolved. Case resolution was unknown for the 60 percent of cases that were resolved through advice to clients. Total direct dollar benefits reported for FY 2014-15 were \$14 million.
- **Auditor General (AG) audits and program oversight mechanisms have found few problems with the collection and use of AJA funds.** We reviewed the most recent AG audits of the fee collection function performed by the courts, court officers, and magisterial district judges (MDJ). No significant problems were found with the collection and timely remittance of the fees. Monitoring reports of the 14 LSPs similarly found few ongoing problems and included required actions to address the issues identified.

#### **Recommendations:**

- **The General Assembly should consider eliminating the sunset provision of the AJA.** The need for civil legal aid has continued to increase as other funding has declined, therefore, AJA funds provide an important funding mechanism. LB&FC could be directed to conduct a performance audit without a sunset provision.

- **The IOLTA Board, working with PLAN, should collect data from LSP clients to determine the actual unmet need for civil legal aid.** This may be accomplished through the use of LegalServer and may help to inform policy decisions.

## PA Department of Corrections Overtime Study

**RELEASE DATE:** February 2017

**BACKGROUND:**

- Senate Resolution 263 (2016) directed the Legislative Budget and Finance Committee to study the issue of staffing shortages and overtime costs within the Department of Corrections (DOC), including the costs associated with hiring a new employee (e.g., salary, benefits, retirement, training, and equipment) as compared to paying current employees overtime.
- This 99-page report is divided into eight major sections plus appendices.

**SUMMARY OF FINDINGS:**

- The number and cost of security hours have increased despite a decline in the inmate population. Since FY 2009-10, the inmate population has declined by an average annual population of 437, and Correction Officer 1-2 (CO 1-2) and trainee positions declined by 159, despite an increase of 201 positions during FY 2015-16. Total security hours have increased by 875,203 (6.1 percent), with overtime hours increasing from 918,555 to 1.8 million, going from 6.4 percent of total security hours in FY 2009-10 to 11.7 percent in FY 2015-16. The average hourly pay rates for overtime increased by 21.3 percent, going from \$34.48 to \$41.84. The total wage and benefit cost of overtime

security hours was \$105.3 million in FY 2015-16.

- **Rising demands for inmate medical and mental health services have increased the need for security hours.** A 48.2 percent increase in inmates age 55 and older since FY 2009-10 has increased the number of medical transports and hospital posts. Due to a Department of Justice investigation and a Disabilities Rights Network settlement agreement, DOC has increased its screening and other requirements related to inmates with mental health issues. As a result, the number of inmates considered seriously mentally ill increased by 3,058 inmates (246 percent) since FY 2009-10.
- **Vacancies are the primary cause of overtime and DOC manpower surveys underestimate the number of COs needed.** During FY 2015-16, DOC had an average of 8,308 filled CO 1-2 and trainee positions out of a complement of 8,767. Our FTE security staffing analysis found that a filled complement of 8,902 security staff positions was needed to minimize overtime hours, in comparison to the 8,784 specified by the DOC manpower surveys.
- **DOC would have saved \$16.2 million in net wages if fully staffed during FY 2015-16.** These savings rise to \$22 million when the cost

of variable benefits (e.g., Social Security) are included. Due to the reduction in overtime hours needed, the savings from hiring a new CO, even after deducting training costs, is approximately \$31,000 in the first year and \$47,000 in the second year.

- **We estimate the 2014 hiring freeze cost the DOC \$4.6 million in FY 2014-15 and \$9.1 million in FY 2015-16.** Assuming a reduction of 300 new hires, we calculated training savings due to the freeze to be \$15.3 million during FY 2014-15. However, the freeze resulted in an additional 358,371 overtime hours at a cost of \$19.9 million, for a net cost of \$4.6 million. Future costs may be offset as the DOC continues to fill vacancies.
- **Overtime increases the Final Average Salary (FAS) resulting in higher pension costs.** The 191 CO 1-2s who retired in FY 2015-16 had an average FAS that was \$14,033 higher than their scheduled salary, resulting in an additional \$8,616 in annual annuity payments. For all 191 COs, this is an additional \$1.6 million per year and an additional \$44.5 million in lifetime benefits.
- **Oversight of work hours is not consistent among the State Correctional Institutions (SCIs).** Although most SCIs have time clocks or a biometric sign-in system, no single system is used to consistently track hours worked. A new roster management system, Telestaff, is being implemented to interface with new time-keeping software, Kronos – Workforce Timekeeper, to increase efficiencies.

## **Recommendations:**

The DOC should:

- avoid imposing hiring freezes on security staff;
- include medical transports and hospital posts when calculating staffing needs;
- use their consultant's analysis of SCI activities and an updated relief factor to develop staffing requirements for new facilities as well as existing facilities;
- require SCIs to consistently develop overtime justification reports on a monthly basis as a method to inform future staffing decisions and address developing overtime problems; and
- require the consistent and uniform use of a time tracking system to ensure more accurate time-keeping and greater oversight.

## PA State Police Cost to Provide Safety on Public Highways

**RELEASE DATE:** March 2017

### **BACKGROUND:**

- This review of Motor License Fund support for the Pennsylvania State Police was conducted pursuant to House Resolution 2015-622. The resolution directed the LB&FC to examine State Police funding in light of constitutional provision that funding provided to the State Police from the Motor License Fund must relate to highway safety.
- This 89-page report is divided into five major sections plus appendices.

### **SUMMARY OF FINDINGS:**

- **“Safety on public highways and bridges” is not defined.** According to the PA Constitution, all proceeds from the Motor License Fund are to be used solely for construction, reconstruction, maintenance, and repair of and safety on public highways and bridges. The term “safety on public highways and bridges” is not defined by the Constitution.
- **Less than 50 percent of the total Trooper complement is available for patrol duty.** Many factors—such as new statutory mandates, increasing traffic volume, and increasing incidents that require police response—have expanded State Police workload and demands. These demands have resulted in Troopers being drawn away from highway patrol duties.
- **On average, just over half of a patrol Trooper’s time is “unobligated,” which is the time Troopers have available for proactive patrol work.** According to State Police records, 51 percent of a patrol Trooper’s time is unobligated and 49 percent is obligated. Obligated time is that spent on activities that take Troopers away from patrol, e.g., responding to incidents, paperwork, and appearing in court. Of the obligated time, 47 percent was related to incidents related to highway safety. The amount of obligated and unobligated time a patrol Trooper spends on highway safety was a key factor in determining overall PSP highway safety costs.
- **Based on FY 2015-16 expenditures, we calculated the “appropriate and justifiable” amount of funding from the Motor License Fund to be \$532.8 million.** This figure was derived, in large part, from calculating how much time patrol Troopers (excluding the Turnpike’s Troop T) spend on highway safety functions and translating those figures into full-time equivalent Troopers. We also took into account those field Troopers in staff and specialty patrol functions, whose time on highway safety varies from 10 to 85 percent. We used the resulting average (58 percent) to allocate the expenditures of those headquarter functions that we determined spend a significant portion of their time on highway safety. In some cases, the allocation factor was either 0 or 100 percent, depending on the nature of the division’s functions. The table below summarizes our calculations.

**PSP Cost for Safety on Highways and Bridges  
in FY 2015-16**

(\$ in millions)

	<u>Expenditures</u>	<u>Allocation Percentage</u>	<u>Highway Safety Expenditures</u>
Field Operations .	\$ 714.0	58%	\$414.1
Troop T.....	43.5	0	0
Headquarters.....	<u>377.4</u>	32	<u>118.7</u>
Total .....	\$1,135.0	47%	\$532.8

- **Had the PSP been allocated only \$532.8 million from the Motor License Fund in FY 2015-16, rather than \$755 million, it would have increased the amount available in the Motor License Fund by \$222.2 million.** This would have been sufficient to resurface about 1,111 lane miles of roadway or design, replace, and maintain 138 bridges for the next 25 years.
- **The ratio of funds expended on highway patrol, administration, training, liquor code enforcement, and gambling enforcement has remained stable over the past five years.** Although overall State Police expenditures have increased over the past five years, the ratio of expenditures to overall spending in each category has remained relatively stable.

## Grant Expenditures by Commonwealth Agencies

**RELEASE DATE:** March 2017

### **BACKGROUND:**

- The Officers of the Legislative Budget and Finance Committee directed its staff to conduct a review of FY 2015-16 Commonwealth grant expenditures. Our review only includes state fund expenditures (i.e., grants that use federal funds are not included) as identified on the PennWATCH website.
- This 177-page report is divided into three major sections plus an appendix.

### **SUMMARY OF FINDINGS:**

- **In FY 2015-16, 363 various types of grant payments were made with State General Fund and State Special Fund appropriations.** In some cases, the appropriation was entirely or almost entirely devoted to grants (i.e., the Ben Franklin Technology Challenge Grant program) and in other cases, grant expenditure comprised only a small percentage of the appropriation (e.g., \$1.5 million in grants from the Fish & Boat Commission's \$46.6 million General Operations appropriation).
- **Grant payments made from FY 2015-16 appropriations totaled \$39.5 billion, \$24.7 billion of which was paid from General Fund monies and \$14.8 billion from Special**

**Funds.** The amount of General Funds used for grants is understated, however, because often General Funds are the primary source of funding for a Special Fund (Special Funds are designated as "State Other" in the report). For example, PennWATCH lists College Capital grants as funded through the College Capital Fund, a Special Fund, even though the College Capital Fund receives virtually all its funding from the General Fund.

- **Table 3 of the report, which identifies the amount paid to grant payees by county, should be viewed with caution.** We used PennWATCH payee address information to assign grant payment amounts to counties. However, payees include, for example, out-of-state pharmaceutical companies that provide prescription drugs to residents throughout Pennsylvania. In that case, the "county" is listed as "out-of-state." The payee address may also simply be a billing address and not indicative of the amount of funds available to or distributed within that county.
- **Often the state grant represents either a mandated payment or the state matching portion of a much larger federal grant.** Any cutting of state grants needs to be done with caution as the grant may be a mandated payment (e.g., state law requires PEMA to distribute a certain portion of the wireless surcharge funds it receives back to counties to help fund county 911 centers) or may



represent the state matching portion of a federal grant (e.g., the \$38 million in Assistance to Drug and Alcohol Program grants is used to match federal Substance Abuse Treatment and Prevention Block Grant funds).

## Public Charter School Fiscal Impact on School Districts

**RELEASE DATE:** May 2017

### **BACKGROUND:**

- In July 2016, the Officers of the Legislative Budget and Finance Committee adopted a study of the financial impact of public charter schools on Pennsylvania school districts.
- This 89-page report is divided into two major sections plus appendices.

### **SUMMARY OF FINDINGS:**

- **Pennsylvania is one of 43 states with laws providing for public charter schools.** In 2015, about 135,000 special education and nonspecial education students were enrolled in Pennsylvania “brick and mortar” and cyber charter schools. Ten percent of Pennsylvania school districts with more than 5 percent of their students enrolled in charter schools accounted for almost 80 percent of all such enrollment. While Philadelphia accounts for half such enrollment, the other 50 districts are found in all corners of the state and include small rural and larger urban districts.
- **In FY 2014-15, Pennsylvania charter schools had \$1.7 billion in total revenues.** Tuition payment from school districts accounted for most of their revenues. Pennsylvania is one of 13 states that routinely include access to local revenue sources to fund charter schools. In 2011, Pennsylvania’s proportion of local revenue going to support charter schools was substantially

more than New Jersey’s (84 percent compared to 23 percent), twice that of Florida, Massachusetts, and New York, four times more than California, and seven times more than Delaware. California, Massachusetts, and New York are among the 21 states that limit the number of charter schools and/or enrollment through statutory “caps,” and Delaware provides for consideration of financial impact along with other criteria when approving charter applications and expansion requests.

- **Pennsylvania is one of 11 states that require school districts to be responsible for charter school student transportation.** Pennsylvania is unique among such states as it mandates school districts provide transportation for charter school students they are not required to provide district students, including transportation based on the charter school’s operating schedule (i.e., hours, days, school closings), and 10 miles outside of the district’s geographic boundaries. This results in some districts having to operate “two busing systems” at significant costs.
- **School district superintendents with significant charter enrollment report some positive, but mostly negative, charter school financial impacts.** Positive impacts include provision of a local high school for one small district, prevention of overcrowding, and some innovative programs. Negative impacts include charter schools attracting students from private schools (e.g., 30 percent in some districts) and shifting educational costs onto the public sector; added costs to operate more than

one public education system, as there are too few charter school students from one school or grade to allow fixed costs such as personnel, utilities, debt, etc., to be reduced; and added costs associated with attendance monitoring and the state tuition payment intercept process.

● **State policies that also negatively impact school districts, include:**

- Statutory tuition formulas that are not related to actual charter school costs, in particular the costs to serve special education students, and cyber charter costs.
- Requirements for tuition payments to out-of-district “brick and mortar” charter schools that have not sought approval as regional charter schools, thereby resulting in districts paying different amounts to educate the same number of students at the same charter school.

**Recommendations:**

- Allow fiscal impact to be taken into account for new and expanded charter applications, permit districts to negotiate charter per pupil payments and payment methods, and require schools serving multiple districts to obtain regional charters.
- Eliminate mandates for transportation services inconsistent with services for students in district operated schools, and eliminate district responsibility for charter school students’ compliance with state compulsory attendance requirements.
- Require parents to register with their school districts and modify the state tuition intercept process to prevent district payments for non-district students and duplicate payments.

**Commonwealth Board and Commission Member  
Compensation and Expenses  
(Partial Report)**

**RELEASE DATE:** May 2017

**BACKGROUND:**

- Senate Resolution 2015-138 directs the Legislative Budget and Finance Committee to study Commonwealth expenditures for salaries and other compensation and benefits of members of state boards and commissions. Due to difficulties in obtaining this information from the Governor’s Office of the Budget, this report includes compensation and expenses for only 72 of the 163 boards and commissions for which we requested information. We plan to issue a second report on the remaining 91 boards and commissions if we receive the information.
- This 55-page report is divided into two major sections plus an appendix.

**SUMMARY OF FINDINGS:**

For 19 of the 72 boards and commissions for which we had information, the board or commission members had total five-year expenses of over \$100,000 as follows:

<u>Agency</u>	<u># of Members</u>	<u>Total 5-Year Compensation</u>	<u>Total 5-Year Retirement or Other Benefits</u>	<u>Total 5-Year Travel</u>	<u>Total 5-Year Expenses</u>
Probation & Parole Board .....	9	\$5,141,300	\$1,726,186	\$191,818	\$7,059,305
Gaming Control Board .....	7	5,097,969	1,583,047	215,198	6,896,214
Workmen’s Compensation Appeal Board .....	3	3,487,566	1,380,774	251,397	5,119,736
PA Public Utility Commission .....	5	3,489,689	1,141,485	196,204	4,827,378
Environmental Hearing Board .....	5	3,183,327	1,083,227	16,611	4,283,164
Civil Service Commission.....	3	1,064,780	382,663	27,870	1,475,312
Unemployment Compensation Board of Review .....	3	871,967	428,378	24,313	1,324,658
Banking & Securities Commission .....	3	531,318	359,319	25,238	915,875
Banking and Securities Commission.....	3	531,318	359,319	25,238	915,875
PA Labor Relations Board.....	3	449,792	337,918	0	787,710
Milk Marketing Board .....	3	223,236	316,882	45,268	585,386
State Athletic Commission .....	3	259,686	303,168	817	563,671

**Table (Continued)**

<u>Agency</u>	<u># of Members</u>	<u>Total 5-Year Compensation</u>	<u>Total 5-Year Retirement or Other Benefits</u>	<u>Total 5-Year Travel</u>	<u>Total 5-Year Expenses</u>
Pardons Board .....	3	\$237,994	\$230,204	\$ 16,591	\$484,789
Nursing Board .....	12	58,080	5,433	105,380	168,894
Vehicle Manufacturers, Dealers, and Salespersons Board.....	11	67,350	6,306	94,269	167,925
Real Estate Commission.....	9	50,340	7,019	100,345	157,705
Medicine Board .....	9	45,360	4,258	83,400	133,018
Ethics Commission.....	7	89,750	7,180	27,119	124,049
Professional Engineering, Land Surveyors, and Geologists Board.....	12	66,960	6,971	45,076	119,007
Fish and Boat Commission .....	10	Note 1	Note 1	111,969	111,969

Note 1: Commissioners or Board Members receive no compensation for their services, but may be reimbursed for travel expenses.

The remaining 53 boards and commissions had total five-year board and commission member expenses of \$1.4 million.

## The Impact of Tavern Gaming on the Pennsylvania State Lottery

**RELEASE DATE:** May 2017

**BACKGROUND:**

- Act 2013-90, an amendment to the Local Option Small Games of Chance Act, requires the Legislative Budget and Finance Committee to conduct an annual study of the impact of tavern gaming on the State Lottery. Under the act, the Governor may request the General Assembly to transfer money from the General Fund to the State Lottery Fund up to the amount identified in the study. This is the second such report under this mandate.
- This memo report is three pages in length.

**SUMMARY OF FINDINGS:**

- **As of April 2017, the PLCB had licensed 56 tavern gaming establishments.** This is far below the Governor's Office initial estimates of 2,000 licensees. Expensive up-front license fees, intrusive background checks, and an unfavorable tax structure have been cited as some of the reasons for low participation among tavern owners.
- **In 2016, tavern games generated \$1.48 million in state tax revenue.** In 2016, tavern games generated \$1.48 million in state tax revenues. These figures are far below the Governor's Office's initial estimates of \$93.6 million annually.

- **Tavern gaming has not had a material impact on the State Lottery.** The \$1.48 million in tavern gaming revenue collected by the Commonwealth in 2016 represents about \$2.46 million in patron losses (gross sales minus prizes), as compared to about \$1.48 billion in losses for persons participating in Lottery games. Because tavern gaming losses are less than two-tenths of 1 percent (0.17 percent) of the losses incurred in Lottery games, we concluded tavern gaming could not have a material impact on State Lottery sales.

## PA's Program for the Beneficial Use of Biosolids (Sewage Sludge) by Land Application

**RELEASE DATE:** June 2017

### **BACKGROUND:**

- House Resolution 2016-60 calls on the Legislative Budget and Finance Committee to review the Commonwealth's program for the beneficial use of sewage sludge by land application.
- This 75-page report is divided into two major sections plus appendices.

### **SUMMARY OF FINDINGS:**

- **Pennsylvania biosolids are classified as either EQ (Exceptional Quality) or non-EQ.** EQ biosolids must meet strict pollution and pathogen requirements and have few use restrictions. Non-EQ biosolids, which comprise over 80 percent of the land-applied biosolids in Pennsylvania, have less stringent pollution and pathogen requirements, and therefore are subject to multiple siting and use restrictions. Both types of biosolids can only be applied up to the agronomic rate for nitrogen of the crop being grown.
- **Pennsylvania sends more of its biosolids to landfills than most states.** About 46 percent of Pennsylvania biosolids are sent to landfills, with land application—typically on agricultural land—accounting for about 38 percent, and incineration about 15 percent. Nationally, about 60 percent of biosolids are land applied, 20 percent landfilled, and 20 percent incinerated.
- **Land application of biosolids is the least expensive use/disposal method.** While costs can vary widely depending on factors such as the volume of material handled, the distance between a treatment facility and landfill, and landfill tipping fees, it typically costs large facilities about \$45 more per wet ton to landfill biosolids than it does to apply them to land. Incineration is about twice the cost of land application. Total costs for use/disposal of biosolids generated in Pennsylvania were approximately \$70 million in 2007 (\$37 million for landfilling, \$19 million for land application, and \$13 million for incineration).
- **No biosolids management method is risk-free.** While the U.S. EPA and others have concluded that the risk of land application of biosolids, if done properly, is minimal, some risk may still exist. To address this concern, EPA is required to conduct biannual reviews to identify new pollutants that may need to be regulated. Negative environmental impacts also exist if biosolids are landfilled or incinerated.
- **Biosolids reduce fertilizer costs to farmers and the use of biosolids is protected under the Right to Farm Act.** Biosolids contain nitrogen,

phosphorus, and various micronutrients that are beneficial to plant growth. In 2015, the Supreme Court ruled that the use of biosolids as fertilizer is a “normal agricultural practice” protected under Pennsylvania’s Right to Farm Act.

- **Public concern over offensive odors has been cited as the biggest threat to the beneficial use of biosolids.** The odor emanating from biosolids can vary from barely noticeable to highly objectionable. Many steps can be taken, including low-cost steps such as avoiding land application when weather conditions are unfavorable and ensuring the material has fully finished the anaerobic process, to reduce odor.
- **DEP only conducts periodic inspections of biosolids land application sites.** DEP’s regulations state it “intends” to conduct an administrative inspection of both biosolids generating facilities and application sites at least annually. We reviewed 12 facilities and 36 application sites for the 3-year period 2014-2016; none of the facilities had an inspection pertaining to their biosolids operations, and only 30 percent of sites had an annual administrative review.
- **Pennsylvania biosolids regulations appear to be generally in line with those of other states.** All states must, at a minimum, comply with federal biosolids regulations. States may, however, enact stricter standards. We reviewed several key standards and found Pennsylvania’s regulations were roughly comparable to the comparison states.

- **Many new technologies are being developed to improve how biosolids are processed and to create alternative beneficial uses.** The report identifies many promising technologies, some of which are already in use.

#### **Recommendation:**

DEP should modify its General Operating Permit requirements to require biosolids generators to develop odor management plans covering both the operating facility and the receiving sites.



## A Review of the PA One Call System

**RELEASE DATE:** October 2017

### **BACKGROUND:**

- The Officers of the Legislative Budget and Finance Committee directed its staff to conduct a review the Pennsylvania One Call System (PA One Call) to assess the System's financial condition, governance, and management policies and to compare the PA One Call Law to laws and systems in other states. Under Act 2016-160, unless reauthorized, PA One Call is to terminate on December 31, 2017.
- This 89-page report is divided into six major sections plus appendices.

### **SUMMARY OF FINDINGS:**

- **PA One Call has carried out, in all material aspects, the duties and responsibilities it is charged with under the PA One Call Law.** Our review found no significant instances of noncompliance with the law's requirements.
- **PA One Call also complies with the best practices established by the Common Ground Alliance (CGA).** These best practices have been established to promote effective damage prevention practices throughout the underground utility industry. We found that PA One Call has complied with the legislative requirement that it use its "best efforts" to implement these practices.
- **States vary in how they structure their One Call systems.** All states (except Alaska) have state One Call laws. Of the 17 other oil and gas producing states (with 20 call centers) we reviewed, nine contract for One Call operations. The remainder (except one for-profit entity in Texas) use private, nonprofit entities, such as Pennsylvania, to provide services.
- **Six of the 17 states we reviewed have damage prevention committees.** Damage prevention committees exist essentially to investigate violations of states' One Call laws. Although Pennsylvania does not have such a committee, both HB 284 and SB 242 would establish one.
- **States also vary in the agencies they use to enforce One Call laws.** Pennsylvania is one of only two states that enforces its One Call law through the Department of Labor and Industry (L&I). Most states (29) enforce their One Call laws through their Public Utility Commission (or equivalent agency), and PHMSA, the federal agency that regulates oil and natural gas pipelines, supports One Call enforcement programs that use state Public Utility Commissions. We found, however, that L&I has made significant strides in improving its enforcement efforts in recent years.
- **Pennsylvania is one of only five states that excludes Class 1 (rural) gathering lines from its regulatory**

**requirements.** Like Pennsylvania, New Mexico and Oklahoma exclude Class 1 gathering lines by reference to federal law and regulations. Kansas and New York exclude all gathering lines. Most states in our review do not exclude any gathering lines. PHMSA is currently reviewing the appropriateness of exempting Class 1 gathering lines. If PHMSA decides to regulate such lines, they would automatically be required to be covered under PA One Call.

- **Pennsylvania’s fee structure, while convoluted, appears to be reasonable.** The law prescribes the manner in which fees are to be set, based on certain costs pertinent to the operation of the One Call system, and PA One Call has developed a variety of rate and fee schedules for its various categories of users and members. We reviewed the calculations PA One Call used to establish its current rates, and found them to be reasonable given the act’s requirements.
- **PA One Call’s top executives have among the highest compensation levels in the country.** In 2015, PA One Call’s President received a total compensation package of \$423,031, and his wife, the Vice President, received a total compensation package of \$273,618. Moreover, agencies under the Governor’s jurisdiction are not permitted to have “direct and immediate” supervisory relationships between family members, but PA One Call is not under the Governor’s jurisdiction.

## An Assessment of Fees Charged by PA County Recorders of Deeds

**RELEASE DATE:** October 2017

**BACKGROUND:**

- House Resolution 1073 directed the Legislative Budget and Finance Committee staff to conduct a review of the fees collected by county Recorders of Deeds and to assess whether the current structure of fees needs to be updated.
- This 57-page report is divided into five major sections plus appendices.

**SUMMARY OF FINDINGS:**

- **Fees to record deeds, mortgages, and many other documents can be difficult to determine.** While a few counties have flat fees (e.g., Philadelphia and Allegheny), most counties set fees using a combination of a base fee (\$13), along with per page, per name, per parcel, and per margin notation fees. This level of complexity can make it difficult to determine accurate fees, both at the Recorder of office and for those seeking to have records recorded.
- **Recorders collect many fees that do not directly relate to the activities necessary to record documents.** Recording fees, established in 1982, are only a small portion of the total fees collected to record most documents. All counties must collect \$36 in state surcharges (primarily to

support Pennsylvania judicial operations) as well as a \$5 county records improvement fee. To that, many counties also add optional fees allowed by state law, such as a UPI fee (typically \$10-\$20), affordable housing fee (typically about \$13), and blight demolition fee (\$15). With all these additional fees, total fees to record a deed or mortgage can exceed \$90. Because deeds and mortgages are typically recorded together, the fee to the consumer is effectively doubled.

- **Larger counties tend to collect more revenue per document filed than smaller counties.** Based on our survey of county Recorders, counties with populations below 100,000 collected an average of \$39 per document recorded (excluding state surcharges) versus an average of \$56 per document in counties with populations over 100,000. Variation ranged from three counties collecting an average of less than \$30 per document to four counties that reported collecting an average of over \$75 per document.
- **Recorders from larger counties are much more likely to report that the fees they collect exceed the cost to operate their offices than are Recorders from smaller counties.** Of the 16 responding counties with populations of less than 100,000, 11 reported the fees they collect are not sufficient to cover the costs to operate

their offices. In contrast, of the 13 responding counties with 200,000+ populations, all but one reported that their fee revenue significantly exceeds (by at least 25 percent) their operational costs. This might be expected as larger counties tend to have higher total fees and can take advantage of economies of scale that are not available to the smaller counties.

fee to as much as ≈\$40 upon recommendation of the Recorder and through county ordinance (the current procedure for establishing UPI fees). Per page/name/parcel/marginal note fees would not be allowed for these types of documents.

- **Recorders chose “allow Recorders to set their own base fees up to a legislatively mandated maximum, with counties allowed to include additional fees by ordinance” as their most preferred option should the legislature require a predictable fee structure.** This was the preferred option for 23 of the 48 responding Recorders from both small and large counties. The second most popular option (different flat fees for different classes of counties) was preferred by 14 Recorders.
- **Due to changes in the federal Truth in Lending Act, many states are moving toward “predictable” Recorder fees to avoid delays and penalties at settlement.** Fifteen states have enacted such predictable fee statutes, but the approach used varies widely.

#### **Recommendation:**

We recommend the legislature set a statewide base fee for 2A-8<sup>th</sup> class counties at ≈\$20 for deeds, mortgages, and other documents that are subject to the state judicial surcharge. We also recommend the legislature allow counties to increase the base

**PROJECTS READY FOR RELEASE/IN PROCESS/ASSIGNED  
AT YEAR'S END**

**Sexual Assault Evidence Collection** – Senate Resolution 2017-75 directed the Legislative Budget and Finance Committee to study the extent to which rape kits remain unprocessed in the Commonwealth and the reasons kits remain untested as part of the Commonwealth's Sexual Assault Evidence Collection Program. This report is planned for release by early 2018.

**Compensation for Members of Boards and Commissions** – SR 138 calls for the Legislative Budget and Finance Committee to study Commonwealth expenditures for salaries and other compensation and benefits of members of state boards and commissions. Due to difficulties in obtaining this information from the Governor's Office of the Budget, the report issued in 2017 included compensation and expenses for only 72 of the 163 boards and commissions for which we requested information.

**Personal Care Homes/Assisted Living Facilities** – The Legislative Budget and Finance Committee Officers adopted a follow up to the Committee's 2007 report on personal care homes/assisted living facilities, with a focus on how other states use Medicaid funds to support entry into assisted living facilities. This report is planned for release by mid-2018.

**Consumptive Use and the Use-and-Return of Commonwealth Waters** – The Officers of the Legislative Budget and Finance Committee directed the staff to study the approach taken in other

states or by other entities in how they charge fees for the use of public waters. This report is planned for release by early 2018.

**Right-to-Law** – House Resolution 2017-50 directed the Legislative Budget and Finance Committee to conduct a comprehensive review of the fiscal impact on Commonwealth agencies and local governmental agencies for implementation of the Right-to-Know Law and to make recommendations. This report is planned for release by early 2018.

**State System of Higher Education** – Senate Resolution 2017-34 directed the Legislative Budget and Finance Committee to study and issue a report relating to the long-term sustainability and viability of the Pennsylvania State System of Higher Education. This report is planned for release by spring of 2018.

**Pennsylvania Game Commission** – Act 1986-93, as amended by Act 1998-166, requires the Legislative Budget and Finance Committee to conduct a performance audit to examine the PGC's compliance with its strategic plan. The performance audit is required every three years. The next report is planned for release in early 2018.

**Chesapeake Bay Nutrient Reduction** – The Legislative Budget and Finance Committee Officers adopted a follow up to the Committee's 2017 study of an alternative approach for how the Commonwealth can meet nutrient reduction

planning targets contained in the Chesapeake Bay watershed implementation plan (WIP). This report is planned for release by early 2018.

**Pittsburgh Rail Study** – SR 76 calls on the Legislative Budget and Finance Committee to conduct a study of the feasibility of providing two additional passenger rail trips daily between Pittsburgh and Harrisburg. This study is currently on hold.

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