CCAP COUNTY COMMISSIONERS™ ASSOCIATION OF PENNSYLVANIA
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SUMMARY AND OVERVIEW
HB 1060 TRANSPORTATION FUNDING LEGISLATION
November 21, 2013

The Pennsylvania House on November 21 approved HB 1060, comprehensive legislation on transportation system funding and reform, on a concurrence vote, following amendment in the Senate on November 20. The bill was signed into law by the Governor on November 25, and is now Act 89 of 2013. Following is a summary of key provisions of Act 89 affecting counties. Attached is a full overview of the proposal, drawn from a House analysis of their amendment to HB 106, nearly identical legislation.

The act generates $2.3 billion over a five-year period, an amount between the Governor's February proposal of $1.8 billion and the $2.5 billion Senate version. Act 89 addresses many of the issues counties have raised in the context of their responsibilities for infrastructure and mass transit.

The key funding provision is the elimination in its entirety of the 12-cent state retail gas tax, currently paid at the pump, on the act's effective date, to be replaced over a five-year period by funding generated from the removal of the artificial cap on the Oil Company Franchise Tax, which is charged at the wholesale level. The millage increase in the first year of the incremental lift of the Oil Company Franchise Tax will be enough to offset the 12-cent immediate removal of the retail gas tax.

The removal of the pump tax also removes the current half cent that funds the county liquid fuels tax. It is replaced by a dedicated 4.17 percent allocation from the Oil Company Franchise Tax. Lifting the cap on the oil franchise tax, along with replacing the county half cent per gallon pump tax with a comparable yield from the franchise tax, generates new and more stable funding for county bridges, particularly in the face of stagnating at-pump sales. The distribution formula and methodology, and allowable uses, appear to be unchanged.

Lifting the cap also yields new revenue under the existing two percent county and forestry bridge allocation.

Act 89 retains the special $5 million allocation to county bridges from Act 44. Both the county and forestry bridge allocation and the $5 million allocation are distributed based on the relative square feet of county-owned bridge decking, counties' preferred distribution formula.

The act establishes, and dedicates funding for, a Highway Bridge Improvement Restricted Account, which is allocated exclusively to improvements for county and municipal bridges.

The bridge bundling program, now in pilot testing in Washington, Blair and Luzerne counties, is included. Under the program, PennDOT would propose to counties and local governments projects that would combine multiple common-design bridges into bundled projects for repair or replacement. PennDOT would allow and manage a single contract for the bundled project. Normal match requirements are maintained, although they can be waived by PennDOT based on local circumstances. The county and municipal obligation would be to maintain the bridges following repair or replacement. In the pilot phase, the program is currently estimated to save up to 10 percent on construction costs and 30 percent on engineering and preparation costs, and is shortening project turn-arounds to as little as one year.

Act 89 phases in increased funding for fixed route mass transit, reaching more than $475 million per year by 2017. Existing match requirements for operating and capital funds are maintained at current levels (earlier proposals had increased local match), and a provision is added to permit the Secretary to waive for cause up to 75 percent of the capital fund match.

A new provision allows PennDOT to complete regionalization feasibility studies of local mass transit organizations, to include cost-benefit analysis and operational analysis, and focusing on creation of service regions or mutual cooperation pacts. If the results estimate an annual net savings, the local government and transportation organization may implement the recommended action, and the operating match requirement will be waived for five years if consolidation occurs. Capital funding will be available to assist in implementation.

The act includes establishment of an alternative energy capital investment program, which provides competitive grants to local transportation organizations to support fleet conversion to alternative energy sources.

Also included is a Shared Ride Pilot Program, intended to test and evaluate new models of funding and delivery of shared ride and community transportation. The pilot program establishes an advisory committee on which CCAP has an appointee.

In a measure to allow local generation of transportation funding, counties are permitted the option to assess a $5 fee on vehicles registered in the county. PennDOT is to collect the fee at the time of registration, and the full amount is then remitted back to the county that assessed the fee. The money generated may be spent by the county in any way the Liquid Fuels money can be expended. The fee is to be levied by ordinance, and the earliest it can go into effect is January 1, 2015. The county is required to notify PennDOT a minimum of 90 days before the ordinance is to take effect.

The act includes creation of, and dedicated funding for, a Multimodal Transportation Fund. Grants would be available for aviation, rail freight, passenger rail, ports and waterways, and bicycle and pedestrian facility projects. Unless otherwise provided by law, the projects will require a cash contribution local match of 30% of the non-Federal share of project costs.

A limited prevailing wage provision is included, which raises the threshold on transportation projects from the current $25,000 to $100,000.

ANALYSIS OF HB 106, AS AMENDED ON THE HOUSE FLOOR

HB 106 was reported out of the Transportation Committee on Wednesday, November 13, 2013 and amended on the House floor on Tuesday, November 19. The amendment would provide increased and stable long-term funding for the Commonwealth's transportation system, including highways, roads, bridges, mass transit and other modes. (Note: the amendment to HB 106 is nearly identical to the amendment to HB 1060.)

Overview: Revenue estimates

- Generates additional $2.3 billion per year by FY2017-18 for Commonwealth's transportation system.
- Generates additional $1.65 billion per year for highways and bridges (Motor License Fund) by 2017-18.
- Generates additional $476 to $497 million per year for mass transit by 2017-18. Front-loads revenue that is being shifted from Motor License Fund to transit agencies so that transit capital needs can be addressed sooner.
- Generates $144 million per year for newly created Multimodal Transportation Fund by 2017-18.
- Over 5 years, a total of an additional $7.36 billion generated for Commonwealth's transportation system.

Eliminating the State Liquid Fuels Tax

- Eliminates the 12 cents per gallon state gas tax currently assessed at the retail level.
- Adjusts the millage rate of the Oil Company Franchise Tax (OCFT) to offset the elimination.

Uncapping the Oil Company Franchise Tax (OCFT)

- The OCFT is the tax on the average wholesale price of gasoline. It has been artificially capped at $1.25 per gallon since 1983. The current average wholesale price of a gallon of gas is $3.11.
- Incrementally eliminates the cap over 5 years.
- Generates an estimated additional $1.85 billion a year by 2017-18 and an estimated additional $5.9 billion over five years.

Vehicle registration fees

- Passenger cars: No immediate increase. Increased from $36 to $37 in 2015-16 and from $37 to $38 in 2017-18.
- Motorcycles: No immediate increase. Increased from $18 to $19 in 2015-16 and from $19 to $20 in 2017-18.
- Pickup trucks: No immediate increase. Increased from $58.50 to $60 in 2015-16 & from $60 to $62 in 2017-18.
- Antique/classic/collectible cars: No immediate increase. Increased from $75 to $77 in 2015-16 and from $77 to $80 in 2017-18.
- Trucks (Class 2-4B): No immediate increases to trucks weighing less than 11,000 lbs. Similar inflationary increases begin in 2015-16.
- Commercial and non-commercial trucks 11,001-80,000 lbs. (Class 5-25) will see a phased-in increase beginning 2014-15:
    - Ranging by weight class from $263-$1,827 in FY 2014-15
    - Ranging by weight class from $283-$1,966 in FY2015-16
    - Ranging by weight class from $303-$2,105 in FY 2016-17
    - Ranging by weight class from $323-$2,244 in FY 2017-18

Buses, school buses and limousines and motor homes will have a similar phased-in increase beginning 2014-15.

Optional biennial registration for all vehicles other than those subject to the International Registration Plan. Takes effect in three years.

Driver's License Fees

Four-year renewal.
No immediate increase. Increased from $21 to $22 in 2015-16 and from $22 to $23 in 2017-18.

Sunset of PA Turnpike $450 million annual obligation to PennDOT per Act 44

- Dedicates the entire $450 million per year to mass transit, redirecting the $200 million portion currently dedicated to roads and bridges. $30 million of that amount will be bondable for major capital expenses, such as bridges, buses and railcar purchases.

- Sunsets annual obligation over eight years.

- After eight years, replaces lost transit funding with revenue from vehicle sales tax.

Fees not restricted to Motor License Fund ("Unprotected fees")

- Redirects to mass transit the revenue from eight fees currently deposited into Motor License Fund, but not constitutionally restricted to MLF.

- Generates an estimated $265 million per year by fifth year.

Miscellaneous Motor License Fund Increases

- Inflationary adjustments made to various fees that PennDOT assesses, including license plates, overweight/oversized hauling permits, occupational limited licenses, CDLs, probationary licenses.

Surcharges on traffic tickets

- Increase 7 existing surcharges on certain serious moving traffic violations by 50 percent.

- Estimated to generate additional $10 million in 2013-14; $19 million a yr. in 2014-15 through 2017-18; $86 million total by 5th year.
- Dedicated to mass transit.

Fines assessed under Title 75, Section 3111 (Failure to obey traffic control devices)

- $150 fine. An increase of $125.

- Estimated to generate additional $46 million a year.

- Dedicated to mass transit.

Financial responsibility (lapse of insurance)

- $300 fine remains.

- Option to pay $500 in lieu of 90-day suspension of registration

- Estimated to generate $7 million.

- Dedicated to mass transit.

Prevailing Wage Reform

Increases the 52-year-old threshold that determines whether state prevailing wage rates shall be paid for transportation projects (primarily those done by local governments). The threshold of $25,000 is increased to $100,000 effective 2014.

Local Governments

- An additional $220 million a year in Liquid Fuels allocations statewide for local roads and bridges by the fifth year. This is more than a 60 percent increase over current allocations to local governments.
- Up to $40 million in grant money by 2016-17 provided to coordinate traffic signals to alleviate congestion and save fuel.

- Up to $8 million available annually for the paving of low-volume rural roads as part of a $35 million Dirt & Gravel Roads program.
- Savings of up to 20 percent local match per bridge under PennDOT's bridge bundling progam.
- Ability to waive local match for transit capital projects, as determined by PennDOT upon application.
- Option for counties to assess a $5 vehicle registration tax.
- Provides incentives, including local match waivers, for transit agencies to consolidate in regions.

Multimodal Fund

Establishes a dedicated fund for multimodal transportation, making resources available to such facilities as rail, ports, aviation, pedestrians and bicycles. The creation of this fund allows PennDOT to make investments in critical infrastructure by making available dedicated funding not restricted to roads and bridges.

Minimum annual funding levels are established for each of the modes. The remaining discretionary funds will be directed to eligible programs. All funds will be allocated through a competitive grant process administered by PennDOT.

Minimum annual funding levels for each mode:

- Aviation programs: $5 million in 2013-14 and $6 million each year thereafter.
- Rail freight programs: $8 million in 2013-14 and $10 million each year thereafter.
- Passenger rail programs: $6 million in 2013-14 and $8 million each year thereafter.
- Ports and waterway programs: $8 million in 2013-14 and $10 million each year thereafter.
- $2 million annually for programs related to bicycle and pedestrian facilities.

Funding sources for the Multimodal Fund:
- $30 million of the Act 44 Turnpike obligation redirected from transit
- A portion of the revenue derived from the 8 "unprotected" fees ($30 million in first year; $79 million a year by Year 5).
- $35 million of the OCFT revenue, redirected from Motor License Fund.

OTHER SIGNIFICANT PROVISIONS

Dirt and Gravel Roads

Provides a $30 million increase to the Dirt and Gravel Road Program through additional Oil Company Franchise Tax revenue, bringing total funding to $35 million annually for maintenance and improvement of dirt and gravel roads. $28 million for State Conservation Commission grants and $7 million to DCNR.

Adds a provision to carve out $8 million of the $35 million dedicated to the Dirt and Gravel Road Program to be earmarked for the paving of low-volume (500 vehicles or less a day) roads.

Dairy Freight Hauling

Current state law allows transporters of raw milk to obtain annual permits for vehicles up to 95,000 pounds, but all processed dairy products are excluded from current law.

Adds provisions to expand the annual permit to allow the transport of processed dairy products, i.e. skim milk, cream, and condensed (skim or whole) milk (plain or sweetened).

The exclusion of processed dairy products from current law creates a competitive disadvantage for the dairy industry with other states. Of immediate concern, the dairy industry in eastern and north central PA supplies processed product to the yogurt industry in New York.

70 MPH Speed Limit

Permits PennDOT and the Turnpike Commission to establish 70 mph speed limits on limited-access highways across the Commonwealth that meet sufficient engineering and traffic criteria necessary for safe operation at such a speed.

Posted and Bonded Road Exemptions

PennDOT may waive the amount that an industry may be responsible for along a bonded road that needs reconstruction if it is determined that another industry contributed to the road destruction to a much greater degree

Implementing Loads/Year exemption will ensure that the Timber industry will have secondary method of exemption if/when "at-risk" exemption under Act 13 sunsets.
PennDOT may audit and revoke permits for fraudulent load counts.

Cost to implement the new loads per year exemption will be $50 million per year
PennDOT may restrict exempt hauling during freeze/thaw period.

Bridge "Bundling"

Chapter 93 is added to Title 74 to provide for PennDOT's "bridge bundling" program. The purpose of the program is to bundle state owned and/or locally owned bridges for the purposes of cost-efficient design and construction.

Local governments owning bridges that are included in the program, after having been identified as candidates by the department, shall be relieved of any local match requirement. If, however, a locally owned bridge is identified by the department and the local government refuses its inclusion in the program, that bridge will be subject to a local match of 30 percent of the non-federal share at such time as it would be constructed.

Traffic Signals Maintenance Agreement

Chapter 92 is added to Title 74 to provide for the traffic signal agility program between PennDOT and municipalities. Specifically, it provides for agreements between PennDOT and municipalities for the upgrade and synchronization of signals in a designated traffic corridor. In return, the agreement may include requirements for the municipality to provide transportation-related services to PennDOT. In cases where PennDOT contends municipalities do not meet the requirements of such an agreement, a procedure is put in place for resolution, ultimately culminating with arbitration if necessary. If a municipality still fails to meet its requirements under an agreement, PennDOT is authorized to withhold liquid fuels funds.

Philadelphia Airport Car Rental Fee Increase

Chapter 59 of Title 74 is amended to add a Subchapter C which establishes an $8 per day fee on motor vehicle rentals at the Philadelphia International Airport. The fee will be used to incur debt to build a multi-story parking facility for the use of the customers of the rental car companies, which will be conveniently located and have the vehicles of all the companies in one area.

The initial $8 fee, effective immediately upon enactment, could be increased in the future upon the mutual agreement of the city and the rental car companies.

Fish and Boat Commission OCFT Rebate

Amends Section 9511 of Title 75 to provide for a rebate to the PA Fish and Boat Commission from the Oil Company Franchise Tax that is paid on fuel used to power motorboats.

For the first five years, the rebate may only be used for the improvement of high-hazard dams and dredging/clearing in the area of the dam. Fish & Boat Commission will be required to come before the House and Senate annually to present their plan to spend this money. Beginning in fiscal year 2018-19, the rebate may be used for a broader spectrum of motorboat-related amenities.

Consolidation of PennDOT Deputates

Adds provisions enabling the consolidation of PennDOT Deputates. Specifically, creates a Deputy Secretary for Multimodal Transportation, which will encompass local and public transportation, rail freight, aviation and airports, and ports and waterways.

Diverse Business Participation

Expands the definition of "diverse business" to also include service-disabled veteran-owned small business and veteran-owned small business, in addition to minority-owned business, disadvantaged business, and women-owned business.

Makes the provisions applicable to the Turnpike Commission

Includes requirements for prime contractors to show good faith efforts to solicit subcontractors from diverse businesses.

With the assistance of the Disadvantaged Business Enterprise Supportive Services Center, PennDOT is required to conduct outreach and report on its outreach program.

Requires provisions to be subject to the Procurement Code and federal requirements.

Requires the Department of Labor and Industry, through CareerLink or other programs, and PennDOT to work together on a job placement plan "to help place individuals from population groups with chronically high unemployment rates in jobs related to transportation funding."

L&I and PennDOT must issue a joint report to the Governor and all members of the General Assembly on the plan.