

PSATS NewsBulletin

FEBRUARY-MARCH 2010

RECEIVED
MAR 25 2010

BY: MTA

A MONTHLY
NEWSLETTER
CONTAINING THE
LATEST
INFORMATION
ON LEGISLATION
AND NEWS OF
INTEREST TO
TOWNSHIPS

Township
government did
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governor's
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The Capitol Roundup Proposed State Budget Further Reduces Local Government Funding, Includes New Taxes

In February, Gov. Ed Rendell delivered his final budget address, which outlined a \$29 billion proposal for 2010-2011 that would increase spending by 4.1 percent. The budget relies on an expected \$2.8 billion from the 2009 federal American Recovery and Reinvestment Act and revenues from the tolling of Interstate 80, a measure that must first be approved by the Federal Highway Administration. The FHA is expected to render a decision soon.

More reductions in local government funding — Township government did not fare well in the governor's proposal, and spending on many programs that municipalities rely on would be reduced. In most cases, these cuts would be in addition to the significant reductions approved in the 2009-2010 budget.

Under the spending plan, the state Department of Environmental Protection's Sewage Facilities Planning Grant Program would be reduced from \$1 million to \$900,000, and the Sewage Facilities Enforcement Grants would be cut from \$3 million to \$2.7 million. These programs were funded at \$1.95 million and \$5 million, respectively, in the 2008-09 state budget. To make matters worse, local sewage agencies still haven't recovered from a steady stream of delays and cuts in their state reimbursements.

The Pennsylvania State Police's Municipal Police Training Fund would be cut from \$1.22 million to \$1.1 million, down from \$4.5 million in 2008-09. This funding is needed to help municipalities pay for mandatory training for local police departments.

The state Department of Community and Economic Development's Land Use Planning and Technical Assistance Program would be decreased from \$375,000 to \$371,000, and the Shared Municipal Services Program would be cut from \$500,000 to \$495,000. Just two years ago, these programs were funded at \$4.17 million and \$2.37 million, respectively. The reductions have effectively shut down land use planning grants. They have also greatly reduced DCED's ability to offset expenses incurred by the Act 32 tax collection committees, which are developing the framework for consolidated earned income tax collection.

Townships officials should note that although liquid fuels disbursements may decrease slightly in the coming year, this is due to reduced fuel sales, not the state budget. Funding for liquid fuels and PennDOT's turnback program is allocated through legislative formulas, which the state cannot alter through the budget.

PSATS is working to restore funding for these programs, and township officials are being urged to get involved, too, by contacting their legislators. When writing or meeting

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In his budget address, the governor suggested that lawmakers reduce the state sales tax from 6 to 4 percent and levy it on many products and services that are currently exempt.

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with lawmakers, please be sure to tell them if your township lost a state grant or other funding due to last year's budget cuts.

Sales tax changes and the new natural gas tax — In presenting the 2010-2011 budget, Rendell outlined a tax plan that would raise money to fill the funding gap that is expected to occur when federal stimulus funding phases out in 2011-12. The governor has asked lawmakers to support new taxes on cigars and smokeless tobacco, changes to the state sales tax, and a new natural gas extraction tax.

The governor suggested that lawmakers reduce the state sales tax from 6 to 4 percent and levy it on additional products and services that are currently exempt, such as advertising, candy and gum, textbooks, firewood, dry cleaning, catering, legal fees, newspapers, and personal hygiene products. Food, clothing, and medicine would continue to be exempt. This proposal is expected to raise \$531.5 million during 2010-11. It is unclear what effect, if any, the plan would have on the optional county sales tax that PSATS has been supporting.

As expected, the governor's proposal also calls for tax on oil and gas extraction, a measure that would raise an estimated \$1.8 billion over five years. Companies would be charged 5 percent of the value of the natural gas at the wellhead, plus 4.7 cents per 1,000 cubic feet of natural gas taken from the ground. The approach is modeled after one adopted in West Virginia.

Local governments would reportedly receive 10 percent of the proceeds, or an estimated \$180 million over five years. However, it's still unclear how these dollars would be distributed. PSATS, in partnership with other local government groups, has been urging the General Assembly to increase the local share to 25 percent, much of which would go to host municipalities that are shouldering the largest impacts from natural gas drilling.

Lukewarm response to the budget — The General Assembly's response to the governor's proposal was lukewarm at best. Many are opposed to the changes to the state sales tax. In addition, the oil and gas extraction tax has few supporters.

Recently, the House and Senate Appropriations Committees held hearings on the proposed spending plan where it became clear that Pennsylvania is facing another difficult financial year. While all sides are eager to avoid a prolonged budget battle similar to last year, legislators are clearly divided over whether the budget can be balanced through deep cuts alone and whether new or increased taxes are necessary. Stay tuned as the annual budget battle heats up.

Play an active role
in the Association
by electing
Executive Board
members,
considering
bylaws changes,
and adopting
resolutions that
will shape the
Association's
legislative
policies.

Top 5 Reasons to Register for PSATS' 88th Annual Conference and Trade Show

1) LEARN NEW THINGS TO MAKE YOURSELF A BETTER TOWNSHIP OFFICIAL . . .

This year's conference will offer more than 80 workshops as part of your registration fee. This is your opportunity to learn about the issues that affect your township — in one place and for one price. On top of that, you will get useful tips and find new and creative ways to stretch local budget dollars at many of the workshops we have planned.

2) MAKE SURE LEGISLATORS KNOW WHAT MATTERS TO YOU . . .

There is no question that the decisions made in Harrisburg affect you, your township, and your taxpayers. At the PSATS conference, you will not only learn about what is on the legislative horizon, but you will also get an opportunity to have your voice heard. At the Fifth Annual Legislative Reception at the State Capitol Complex, held in conjunction with the conference, you can meet with state legislators and tell them how their decisions affect your township's budget, services, and ultimately, the constituents that both of you serve.

3) EXERCISE YOUR RIGHT TO VOTE ON PSATS BUSINESS . . .

At the conference, you can play an active role in the Association by electing Executive Board members, considering bylaws changes, and adopting resolutions that will shape the Association's legislative policies for the new decade. Your vote counts, and your vote matters!

4) CONNECT WITH COMPANIES AND AGENCIES THAT DO BUSINESS WITH TOWNSHIPS . . .

Having good relationships with the companies and state and federal agencies that do business with townships is essential. Check out the largest municipal trade show in the state, which features nearly 300 vendors, and meet representatives from the companies and agencies that help keep your township going strong.

5) MEET YOUR NEW EXECUTIVE DIRECTOR, DAVE SANKO . . .

This will be Dave's first time attending the PSATS conference as executive director. As a strong local government proponent, he has big plans for making the Association an even better member-service organization and public-policy leader. Don't miss this chance to meet your new executive director one-on-one!

PSATS encourages you to send at least one person from your township to this year's conference, which will be held **April 18-21 at the Hershey Lodge**. You will reap the rewards of this experience many times over for the low registration fee of \$175 per person!

To register, use the form that PSATS sent to your township in December or log onto www.psats.org and click on the "For Townships" conference link at the top of the home page. You will find more information and registration materials there.

We hope to see you in April!!

Find out how
your township can
help spread the
word about the
2010 Census
and ensure it
achieves a full
and accurate
count during free
webinars that
are scheduled
this month.

Training Opportunities for Township Officials

As a township official, it's important that you stay in the loop, and PSATS can help you do just that at its upcoming workshops.

The following sessions are planned in the weeks ahead:

♦ **Census webinars** — Find out how your township can help spread the word about the 2010 Census and ensure it achieves a full and accurate count during this month's free webinars, sponsored by the U.S. Census Bureau, in partnership with the state Department of Community and Economic Development and the Pennsylvania Local Government Training Partnership. During the 90-minute sessions, township officials will learn specific strategies, plans, and activities that will help make the 2010 Census the most accurate in history. The program will also feature a question-and-answer session with U.S. Census Bureau staff.

The webinars are scheduled **March 23 and 29**. Township officials can register for the morning session, which will be held from 10 to 11:30 a.m., or the afternoon session, which will be held from 2 to 3:30 p.m. Registrants with high-speed Internet access may participate via their home or office computer. Township officials may also opt to participate at one of the following sites:

- ♦ WITF Studios in Harrisburg (*live presentation site*)
- ♦ Northern Tier Regional Planning and Development Commission in Towanda
- ♦ North Central Regional Planning and Development Commission in Ridgeway
- ♦ Northwest PA Regional Planning and Development Commission in Oil City
- ♦ Mansfield University
- ♦ Indiana University of Pennsylvania
- ♦ Clarion University
- ♦ Bloomsburg University (*March 29 only*)

The webinars are free; however, pre-registration is strongly recommended. To register, log on to www.psats.org and choose "Local Government Training Partnership" on the left side of the home page or call PSATS at (717) 763-0930.

♦ **CDL training** — PSATS will be offering training on CDL records management and drug and alcohol testing in May and June at six locations statewide.

The "CDL Records Management" workshop will help employers understand the state and federal records they must maintain for commercial motor vehicles and the employees who operate them. The "CDL Drug and Alcohol Testing Supervisory Training" will help supervisory personnel better understand state and federal CDL regulations for drug and alcohol testing. Participants will also learn what to do if they suspect or verify that an employee is under the influence while performing CDL duties.

"The CDL Drug and Alcohol Testing Supervisory Training" will be held from 8:30 a.m. to noon and the "CDL Records Management" workshop will be held from 12:30 to 4 p.m. on the following dates:

- ♦ **May 13** — Wrightstown Township Municipal Building, Bucks County
- ♦ **May 14** — Lancaster Township Municipal Building, Lancaster County

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Act 4 of 2010
established a Coal
Bed Methane
Review Board to
resolve conflicts
between well
operators and
landowners.

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- ♦ **June 3** — Dingman Township Municipal Building, Pike County
- ♦ **June 4** — Mahoning Township Municipal Building, Montour County
- ♦ **June 9** — Indiana University of Pennsylvania, Indiana County
- ♦ **June 10** — Huntingdon Borough Municipal Building, Huntingdon County

The cost for each class is \$50. To register, call PSATS at (717) 763-0930 or log onto www.psats.org and click on the “PSATS Workshop Registration” link on the left side of the home page.

Lawmakers Enact One Law, Consider Other Local Government Legislation

The General Assembly passed a new act and considered several bills of interest to townships in recent weeks. Below is a summary of the legislation:

Coal bed methane wells — Act 4 of 2010 (HB 1847) establishes a Coal Bed Methane Review Board to consider and resolve conflicts between well operators and landowners over the proposed location of wells and roads. Act 4 will require operators to notify landowners in writing of the owner’s right to have any objections over the location of a well or road heard by the review board.

This act requires the state Department of Environmental Protection to comply with the review board’s determinations, which supersede any municipal resolutions or ordinances pertaining to this issue. The act was signed and took effect February 1, 2010.

Leasing “Clean and Green” lands for oil and gas exploration and wind power generation — Senate Bill 298 (PN 1624) would authorize the owner of property subject to a preferential assessment to lease the land for oil and gas exploration and wind power generation. It would also clarify that rollback taxes may only be levied on land used for oil and gas extraction and wind power generation. Land devoted to subsurface transmission or gathering lines would be excluded. SB 298 has passed the Senate and is before the House Agriculture and Rural Affairs Committee.

Contracting for State Police coverage — Senate Bill 984 (PN 1299) would authorize municipalities that do not have their own police department to contract with the State Police to provide protection. The bill clarifies that contracted troopers would not count against the State Police’s complement of officers.

Contracted troopers would remain under the command of the local State Police field office, could not be ordered away from the municipality except during extreme emergencies, and would authorize troopers to enforce all commonwealth laws as well as the municipality’s public safety ordinances. This bill is currently before the Senate Law and Justice Committee. PSATS testified in support of this voluntary proposal at a recent hearing.

Extension of municipal tipping fee — House Bill 1768 (PN 2725) would amend the Municipal Waste Planning, Recycling, and Waste Reduction Act (*Act 101 of 1988*) to

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HB 1831 would amend the MPC to authorize municipalities to charge fees for the review of conditional use applications by the municipality's professional consultants.

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extend the sunset date for municipal tipping fees from January 1, 2012, to January 1, 2020. It would also authorize the transfer of monies from the Recycling Fund to remediate waste tire stockpiles.

In addition, HB 1768 would define "adjacent municipalities" as those within one mile of a proposed landfill, landfill extension, or a new resource recovery facility. These municipalities would be authorized to conduct joint inspections with the host municipality and the state Department of Environmental Protection as well as independent evaluations. Adjacent municipalities would also be able to negotiate a separate host fee with the operator. HB 1768 has passed the House and is before the Senate.

Conditional use review fees — House Bill 1831 (PN 2489) would amend the Pennsylvania Municipalities Planning Code to authorize municipalities to charge fees for the review of conditional use applications. These fees would include reasonable and necessary expenses charged by the municipality's professional consultants. They could not, however, exceed the rates or costs charged by the consultants for comparable services to the municipality. HB 1831 has passed the House and is before the Senate Local Government Committee.

Ban on the use of wireless equipment while driving — House Bill 2070 (PN 3148) would prohibit the use cell phones, personal digital assistants, and computers while driving except in certain situations. The bill would allow the use of hands-free devices.

If a municipal police department levies a fine under this proposal, 25 percent would go to the municipality and the remainder would fund public education programs to combat distracted driving. If the State Police levy the fine, 25 percent would be distributed to all municipalities through the Liquid Fuels Fund and the remainder would be used to combat distracted driving. HB 2070 has passed the House and is before the Senate Transportation Committee.

To view any of these bills, log onto www.legis.state.pa.us and enter the bill number in the upper right corner.

Learn About PSATS' Insurance and Retirement Savings Options at Upcoming State Conference

The PSATS Trustees Insurance Program has been providing medical, life, weekly disability, and dental insurance plans and pension programs since 1959 and understands the needs and challenges facing Pennsylvania's township officials, their employees, and families. In January 2009, the Trustees Program introduced a 457 Plan, which enables township employees to participate in a tax-deferred retirement savings program while providing townships with an inexpensive way to help employees set aside a nest egg.

To learn more about the many programs offered by the PSATS Trustees Insurance Program, plan to attend our workshops at PSATS' 88th Annual Educational Conference & Trade Show in April in Hershey. The benefits of our defined-benefit pension plan and the

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The Supreme Court held that post-retirement medical benefits for supervisor-employees are a form of deferred compensation that is permitted under Section 606(a) of the Township Code.

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impact of Act 44 of 2009 will be discussed from 1-2:30 p.m. Monday, April 19, in Empire D of the Hershey Lodge. Joe Bonasera, president of Summit Financial Corp, which provides the administrative and actuarial services for the Trustees defined-benefit pension plan, will lead the presentation. A second workshop will be held from 2:45 to 4 p.m. Monday, again in Empire D, to discuss the PSATS 457 Plan. Presenter Doug Johnson of Summit Financial will discuss the plan's advantages, its wide range of investment funds, and the flexibility it offers participants.

On Tuesday, April 20, come and learn about the many programs offered by the PSATS Trustees Insurance Fund from 1:30 to 3 p.m. in Empire D. Representatives from PSATS and Trustmark Insurance Co. will answer your questions about Trustees' medical, life, disability, and dental plans.

For more information, call Diane Calhoun, PSATS director of insurance services, toll-free at (800) 382-1268.

State Supreme Court Rules Supervisor-Employees Are Eligible for Post-Retirement Health Insurance

The Pennsylvania Supreme Court recently ruled in *White Deer Township v. Knapp* that elected supervisors who are also township employees may be included in post-retirement health care coverage, subject to the approval of the township auditors.

This case dates back to 1997, when then-members of a three-member board of supervisors, each of whom was also a long-term township employee, adopted an ordinance that created a post-retirement health care plan for the township's employees — that is, for themselves. Soon after, each supervisor retired from employment and from office. The new board sought to revoke the post-retirement coverage, and the matter eventually wound up in court.

After the Union County Court of Common Pleas upheld the ordinance, the case bounced between the Commonwealth Court and the state Supreme Court for years. Eventually, the Supreme Court held that post-retirement medical benefits for supervisor-employees are a form of deferred compensation that is permitted under Section 606(a) of the Township Code. It didn't matter, the court said, that the deferred compensation in this case was awarded after the work had been done.

Two of the seven justices dissented with the opinion. However, despite those two detractors, the ruling stands. Essentially, it means that:

- Supervisor-employees may participate in township-paid group health care coverage during their term of office and during township employment *without auditor approval*; and
- Supervisor-employees may participate in township-paid, post-retirement health care coverage as a form of deferred compensation, *subject to auditor approval*. Bestowing that benefit after the employee's services have been rendered, however, as in this case, will more than likely invite close and unsympathetic judicial scrutiny.

Gov. Ed Rendell
has asked for
federal snow
assistance
because costs
associated with
this winter's
snowfall far
exceeded federal
thresholds.

This and That...

Be sure to check this section each month, where we will feature important reminders and information about upcoming events.

- **Rendell requests federal aid for recent snowstorms** — After back-to-back storms brought record-setting snowfall to many areas of the commonwealth, Gov. Ed Rendell has asked President Obama to declare a major disaster in Pennsylvania because costs associated with this winter's snowfall far exceeded federal thresholds and municipalities in 27 counties need more than \$50 million in federal assistance. The governor stated that he may make additional requests as more information arrives from other counties.

It is not known when the president will respond to the request.

For more information, including the list of counties included in the governor's request, log onto www.psats.org and view the related articles under "In the News."

- **UC-2 form error** — The recently mailed PA Form UC-2/Employer Reports for First Quarter 2010 contains an error in the employee withholding tax rate. The state Department of Labor and Industry is revising the form and will mail it shortly.

To clarify, the PA UC Employee Withholding Tax Rate is .08 percent (.0008) as of January 1, 2010, not .06 percent (.0006) as printed erroneously on the UC-2. If you have any questions about this form, please contact your local UC Field Accounting Office at the number at the top of the UC-2 form or call the PSATS UC Group Trust toll-free at (800) 382-1268.

- **New PSATS' membership cards arriving soon** — Township officials should be on the lookout for their redesigned PSATS membership cards, which will feature enhanced access to members-only information at www.psats.org.

- **Proposed bylaws changes sent to townships; resolutions on their way** — The proposed bylaws changes that will be considered at PSATS' 88th Annual Educational Conference in April were mailed to all township secretaries and county associations in early March.

Proposed resolutions, along with the Resolutions Committee's actions, were mailed to township secretaries and county associations on March 19.

If you have questions or need additional copies of the resolutions, call the Association at (717) 763-0930 or e-mail hfishel@psats.org.

- **Correction** — The toll-free number for COSTARS that was printed on Page 5 of the January 2010 *NewsBulletin* and Page 64 of the February 2010 *Township News* is incorrect. The correct number is (866) 768-7827. We regret the error.