

# **LEG REG REVIEW**

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*LEG REG REVIEW is a periodic newsletter produced by Vince Phillips who retired from active lobbying after 31 years of advocacy in Harrisburg. It contains news on the legislative and regulatory scene in Pennsylvania that may be of interest to the Insurance and Business Communities. Annual subscriptions are \$100 and information may be obtained by contacting PHILLIPS ASSOCIATES at 717/728-1217 or e-mail to [xenobun@aol.com](mailto:xenobun@aol.com).*

### **DEMOCRATS MAINTAIN HOUSE MAJORITY**

House Democrats preserved their narrow two-vote control of the PA House because of two events.

First, Democrats won the Bucks County special election on February 13 to fill the seat left vacant by Rep. John Galloway's resignation, allowing Democrats to retain a two-vote majority in the PA House. The Representative-elect is Jim Prokopiak.

The other event was a Republican resignation. Rep. Joe Adams (R-Wayne) resigned from the PA House of Representatives effective immediately due to family health concerns. Another special election will be called in this GOP district. Until then, House Republicans will remain tantalizingly close to a majority.

### **GENERAL ASSEMBLY UPDATE**

The House and Senate will return to Harrisburg on March 18. Neither the House Insurance Committee nor the Senate Banking & Insurance Committee have scheduled meetings.

### **ABOUT THE BUDGET**

On February 6, Governor Josh Shapiro presented his vision for the Fiscal Year 2024-25 State Budget. Calling for a \$39-plus billion-dollar budget, the Governor's speech called for more money spent for education, mental health, mass transit and seeks to tap into the Rainy-Day Fund to pay for part of those increases. Republicans were less than enthusiastic, saying that with the absence of Federal COVIC and grants to PA from the Federal Infrastructure law, increases in spending represent long-term obligations for the Commonwealth and so, the Rainy-Day Fund should not be drained because of future institutional budget deficits.

### **INSURANCE AND THE BUDGET**

Out of the spotlight, the Insurance Industry has a lot to do with the State Budget. Insurance contributes over one billion dollars to the State Budget.

Insurance companies pay taxes on premiums. This is a two-percent tax paid by admitted carriers and three-percent tax paid to the state by surplus lines licensees for insurance sold in the Excess and Surplus Lines market. Marine insurance companies pay five percent of profits attributable to Pennsylvania in lieu of a tax on premiums. Those tax collections totaled \$1.02 billion in Fiscal Year 2023-24, the current fiscal year. For the Fiscal Year beginning on July 1, insurance premium taxes are expected to be \$1.07 billion.

The Premium Tax paid by foreign (out-of-state) fire insurance insurers for their PA business is dedicated to paying pensions and retirement plans for firefighters -- \$87.1 million in FY 2023-24 and \$91.6 million projected for FY 2024-25. Foreign (out-of-state) casualty insurance companies' premium tax for PA business goes into the Municipal Pension Aid Fund for police and some fire pensions -- \$389.2 million in the current fiscal year and projected to be \$409.6 million in the next budget year.

### **Premium Tax Exemptions**

Not all insurance entities pay premium taxes. Exempted are purely mutual benefit associations (\$19.7 million in FY 2023-24) and nonprofit hospitals and medical care service organizations (\$73.6 million in FY 2023-24). In addition, auto insurance companies that are required to provide extraordinary medical benefits from \$100,000

to \$1.1 million as a result of the repeal of the PA’s Catastrophic Loss Trust Fund are exempted from paying the Insurance Premium Tax for that coverage (\$100,000 in FY 2023-24). There are four other exemptions from the Insurance Premium Tax:

- Employee Benefit Employer-Paid Contributions (hospitalization, sickness, disability, death employer-paid supplemental Unemployment Compensation Insurance, group life insurance, and strike benefits), Exempt from the premium tax currently are \$1.07 billion this fiscal year and a projected \$1.13 billion in the fiscal year beginning July 1.
- Employer funding cafeteria plans as long as highly compensated individuals do not receive more benefits than other employees. This non-discrimination provision is mandated by the Affordable Care Act. The exemption this fiscal year is \$66.8 million and is estimated for FY 2024-25 at \$68.3 million.
- Life Insurance Proceeds Premium Tax exemption is \$181.1 million this fiscal year and is projected to be \$181.8 million in FY 2024-25.
- Sickness or disability payments (not from wage or salary) are exempted but \$\$ amounts are unknown.

**Fees and Licenses**

The Insurance Department is estimated to take in \$71.7 million in insurance producer licensing fees in the current fiscal year, FY 2023-24, and \$1.0 million more in the upcoming fiscal year. Other fees remitted to the Department add up to \$12.4 million for both this fiscal year and estimated for the next.

Per Act 46 of 2013, licensing income goes into the Insurance Regulation & Oversight Fund with one-half being forwarded to the PA Insurance Department for general government expenditures. That is approximately one-half of \$82.3 million, -- beginning cash balance of \$41.08 million in FY 2024-25 plus \$48,66 million in FY 2024-25. Other sources of PID revenue are \$1.0 million in fines and \$24.6 million from the surcharge on moving vehicle violations for this and the next fiscal year.

**Other Insurance Programs**

<u>Program</u>	<u>Income FY 2023-24</u>	<u>Income FY 2024-25</u>
<b>Health Insurance Exchange</b>	\$107.6 million	\$104.8 million
	<u>Disbursements FY 2023-24</u>	<u>Disbursements FY 2024-25</u>
	\$99.02 million	\$100.74 million

Also called ‘Pennie’, it is a subsidized premium, amount to be determined by income. It is the state’s version of the Affordable Care Act Insurance Marketplace. It has a reinsurance mechanism.

<u>MCARE</u>	<u>Income FY 2023-24</u>	<u>Income FY 2024-25</u>
	\$277.7 million	\$305.34 million
	<u>Disbursements FY 2023-24</u>	<u>Disbursements FY 2024-25</u>
	\$265.8 million	\$312.29 million

Medical Care Availability & Reduction of Error is a third layer of Medical Malpractice Insurance mandated by Act 13 of 2002 for hospitals and health care providers. The first layer of this professional liability insurance comes from the standard market and the third comes from the Excess and Surplus Lines market. Each year, the state sets an assessment for hospitals and health care providers. **NOTE:** MCARE does not call this assessment a premium. MCARE replaced the former Medical Professional Liability Catastrophic Loss Fund.

<u>Mine Subsidence</u>	<u>Income FY 2023-24</u>	<u>Income FY 2024-25</u>
	\$9.5 million (premiums)	\$11.7 million (premiums)
	<u>Disbursements FY 2023-24</u>	<u>Disbursements FY 2024-25</u>
	\$7.47 million	\$6.87 million

Coal and Clay Mine Subsidence Insurance Fund is administered by the Department of Environment Protection. Sales can be either direct or through a licensed insurance producer who would receive a one-time commission or fee. Originally created by Act 484 of 1961, the Act was amended by Act 155 of 2002.

<b>CHIP</b>	<b><u>Income FY 2023-24</u></b>	<b><u>Income FY 2024-25</u></b>
	\$346.14 million	\$399.8 million

**NOTE:** This total includes \$234.5 million from the Federal Government in FY 2023-24 and anticipates \$273.44 million of Federal money in FY 2024-25.

The Children’s Health Insurance Program was established by Act 113 of 1992 to provide subsidized health care for children with the subsidy amount depending on the family’s income. Sales can be direct to the authorized health insurer or by insurance producers if the carrier chooses to accept CHIP business that way. **NOTE:** The Rendell Administration changed CHIP to say that children whose family income exceeded the subsidy eligibility ceiling could also enroll, although be it at a higher premium – what the Commonwealth pays to purchase that insurance. According to the 2020 Annual Report from the Department of Human Services, 13,761 CHIP enrollees out of 172,885 did not receive a subsidy. **NOTE:** Per Act 84 of 2017, management of CHIP was shifted to the PA Department of Human Services away from the Insurance Department.

<b>Workers Compensation</b>	<b><u>Income FY 2023-24</u></b>	<b><u>Income FY 2024-25</u></b>
	\$69.0 million	\$86.8 million
	<b><u>Disbursements FY 2023-24</u></b>	<b><u>Disbursements FY 2024-25</u></b>
	\$86.6 million	\$87.6 million

The Workers Compensation system was established in PA over a century ago. The Department of Labor & Industry administers the program. Revenues come from annual assessments on insurers that write WC and self-insured entities. Disbursements are made to L&I from the Workers Compensation Administration Fund. **NOTE:** This Fund has an ending cash balance of about \$86.2 million after disbursements in FY 2024-25 and an estimated \$85.4 million for FY 2024-25’s ending cash balance.

**Other Workers Compensation Funds**

- **WC Supersedes Fund** reimburses insurers for WC payments made by them to persons later deemed to be ineligible. Assessment income for FY 2024-25 is projected to be \$32.1 million with \$32.0 million in disbursements. Beginning cash balance for FY 2024-25 will be an estimated \$11.23 million.
- **Uninsured Employers Guaranty Fund** pays claimants/dependents when the liable employer failed to secure WC coverage. Assessments are expected to be \$6.5 million with disbursements at \$8.0 million in FY 2024-25. This Fund will have a beginning cash balance of \$3.16 million.
- **Self -Insurance Guaranty Fund** pays claims arising from defaulting employers. FY 2024-25 is estimated to have \$3.17 million in receipts and \$1.32 million in disbursements.
- **WC Security Fund** may see some controversy this budget cycle with a Shapiro Administration proposal to shift \$50.0 million from this Fund to the Reinsurance Fund which functions as re-insurance for Pennie. The WC Security Fund has a starting cash balance for FY 2024-25 of \$1.08 billion and anticipates claims of \$29.0 million.
- **State Workers Insurance Fund (SWIF)** is the insurer of last resort for Workers Compensation. Although a state entity, SWIF is the largest WC carrier in PA and pays \$2.0 million per year for the Insurance Premium Tax. It uses insurance producers for marketing. In FY 2024-25, it is expected to receive \$218.0 million from premiums, interest, etc. and pay \$213.0 million in claims. Ending cash balance (reserves) for FY 2024-25 is projected to be \$1.17 billion. It is administered by L&I.

**OOPS! OUT OF ROOM** to talk about the Catastrophic Loss Benefits Continuation Fund, Underground Storage Tank Indemnification Fund, Insurance Liquidation Fund, Insurance Fraud Prevention Authority, the Auto Theft Prevention Authority, Joint Underwriting Authority, and the two Guaranty Associations and their tax credits.