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Some Key Details of the Transportation Bill

The nearly year-long saga surrounding the transportation bill of 2013 (Act 89) came to an end on November 25th when the Governor signed it into law. Act 89 covers a wide range of topics from public transportation to the Turnpike and multimodal transportation. It increases the size of state government by creating five new deputy commissioners in the Department of Transportation and increases driver and vehicle fees and fuel taxes. And for good measure it chips away at Pennsylvania's more than fifty year old prevailing wage law. In short it is a far reaching piece of legislation.

While it can be debated as to which change is the most important, one thing that jumps out is a change to the amount the Turnpike Commission owes PennDOT as a result of 2007's Act 44. As we had written about previously (*Policy Brief Volume 8, Number 61*) the scheme to toll Interstate 80 and have the Turnpike borrow against those revenues to send money to PennDOT for mass transit, as well as road and bridge repairs fell flat when denied by the Feds in 2008. To compensate, the Turnpike Commission has been raising fares on existing toll roads annually and issuing debt at an alarming pace (*Policy Brief Volume 12, Number 5*) to cover those payments. Act 89 alters the payment schedule and gives the Turnpike Commission a bit of a break. The Commission will still owe PennDOT $450 million per year until fiscal year 2021-2022 when the amount falls to $50 million. Previously, the Commission was on the hook for full payment until 2057. However, it is unlikely the string of toll increases will end any time soon as the damage from this failed scheme has already been done.

Most of the media attention has been focused to the increase in the oil company franchise tax on liquid fuels. The tax hike over the next five years occurs in two ways. First, the cap of $1.25 per gallon on wholesale fuel which is used to calculate the tax levy is being raised to a set price of $1.87 per gallon after December 31, 2013 (an increase of 50 percent). It will be set at $2.49 in 2015 (a further increase of 33 percent), and then the taxable set price will be set at $2.99 in 2017 (an increase of 20 percent) and remain at that level.

The second phase of the tax hike is an increase in the wholesale millage rate of 64 mills. This hike is done to offset the elimination of the 12 cents per gallon tax currently imposed at the pump. The additional millage is set in subsection 9502(a) of the bill. In

this subsection, titled “Imposition of Tax”, there are currently four sets of millages applied to the oil company franchise tax. First is the imposition of 60 mills for highway maintenance and construction. Secondly another 55 mills is added with the proceeds distributed to county maintenance districts and other local highway and bridge projects and the Turnpike. Third another 38.5 mills is applied with proceeds to be deposited into the Motor License Fund and lastly another 55 mills is added for the Highway Bridge Improvement Restricted Account. All together they sum to 208.5 mills. Act 89 augments language in this subsection stating “an additional 64 mills in calendar year 2014, 49 mills in calendar year 2015, 48 mills in calendar 2016, 41 mills in calendar 2017, and 39 mills in each calendar year thereafter, is imposed upon all liquid fuels and fuels…” The bulk of this money (95.83 percent) goes to the Motor License Fund with the remaining (4.17 percent) being sent to the state treasury, presumably into the general fund. The following table summarizes the fuel taxes imposed for the current year (2013) and beyond.

Year	Average wholesale price per gallon set for “oil company franchise tax”	Total millage applied to oil company franchise tax	Tax added to retail price if all wholesale passed through and 12 cents retail eliminated in 2014	Cumulative Increase over 2013
2013	90¢ min $1.25 max	208.5	26.1¢ (+12¢ retail tax) = 38.1¢	------
2014	$1.87 set price	272.5	51.0¢	13.0¢
2015	$2.49	257.5	64.1¢	26.1¢
2016	$2.49	256.5	63.9¢	25.9¢
2017	$2.99	249.5	74.6¢	36.6¢
2018+	$2.99	247.5	74¢	36¢

Act 89 also adds a new chapter to Title 74 setting up a Multimodal Transportation Fund (MTF) to allocate money for aviation ($5 million in fiscal 2013-2014 then $6 million in 2014-2015 and each fiscal year thereafter), rail freight ($8 million and then $10 million), passenger rail ($6 million and then $8 million), ports and waterways ($8 million and then $10 million), and bicycles and pedestrian facilities ($2 million). All are to be adjusted for inflation after 2015 and then every two years afterward. The money will be appropriated by the state treasury to the MTF from the oil company franchise tax.

Secondly, it is also designed to pay for “activities… initiated or undertaken in consultation with the chairman of the transportation committee of the Senate and the chairman and minority chairman of the transportation committee of the House of Representatives.” The amounts are $0 for 2013-2014, not to exceed $20 million in 2014-2015, and not to exceed $40 million in 2015-2016 and every year thereafter, $35 million of which shall be from revenues deposited into the fund from the oil company franchise tax. This has been called a throw-back to the walking around money days of the past where legislators had money at their discretion to throw at projects without any check and balance procedure.

Finally, any money in the MTF that is not spent by the above (as well as PennDOT administration costs) goes to the Commonwealth Financing Authority (CFA) and used to

fund eligible programs. The CFA is listed as an independent agency to administer Pennsylvania's economic stimulus packages. Programs include renewable and solar energy, alternative and clean energy, and the Marcellus Shale legacy fund. Authorities have historically been used to circumvent the legislative process and have been known to take on debt pledged to revenues thereby bloating government. Feeding the CFA with revenue from the oil company franchise tax is a misguided approach as money from this tax is intended for road and bridge repairs as stated in subsection 9502(a) of Title 75 (Vehicles) not alternative energy programs.

In addition to the topics addressed above Act 89 gives counties permission to add "a $5 fee for each nonexempt vehicle registered to an address located in the county." This money will be deposited into the local use fund which that county must send 50 percent to its municipalities. It also gives Philadelphia's airport permission to impose a car rental tax of at most $8 per day, pending consent of rental companies, to help with the "planning, development, financing, construction, and operation of a rental facility and rental facility improvements."

Act 89 digs deep into the pockets of Commonwealth drivers through registration fees and fuel taxes. And while it raises considerable funds for roads, bridges, and mass transportation it falls woefully short in demanding accountability for the money. It does increase the threshold for which prevailing wages are now required ($25,000 to $100,000) but abolishing this law altogether would help stretch construction dollars much farther. While it does mention studying consolidation of mass transit services, it does not require a move toward consolidation or privatization nor does it ban transportation workers from striking—actions desperately needed to produce real reform at the huge transit agencies. All it does is throw more taxpayer money at these problems instead of pushing for meaningful reform.

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