

Changes Brought by the Transportation Bill

Act 89 of 2013, otherwise known as the transportation bill, contained major changes that will affect Pennsylvania motorists and taxpayers in the form of higher taxes, fees, and fines. The revenue increases were enacted to greatly expand the amount of funding available for highways and bridges as well as for mass transit. But there were other significant changes that have not received as much attention or commentary as the revenue boosts—the Institute has commented extensively on revenue enhancements in recent *Policy Briefs*.

First, Act 89 established the “Multimodal Transportation Fund”. This fund will receive revenue allocated from the Turnpike annual payment to the Department of Transportation, dedicated fee collections and funding from the Oil Company Franchise tax. The fund is projected to receive almost \$100 million in FY 2014-15, with receipts rising to \$144 million in FY 2017-18. These funds will be used to support a variety of eligible projects including:

- a. Projects that coordinate local land use with transportation assets to enhance existing communities;
- b. Projects related to streetscape, lighting, sidewalk enhancement and pedestrian safety;
- c. Projects improving connectivity or utilization of existing transportation assets;
- d. Projects related to transit-oriented development.

Beyond these projects, money from the fund will also go to programs related to aviation, rail freight, passenger rail, and ports and waterways with a total of \$34 million per year dedicated in FY2014-15 and years following. Another \$2 million will be appropriated to bicycle and pedestrian facilities.

Any money not used by the remaining eligible projects will be transferred to the Commonwealth Financing Authority for use in its programs. All the projects funded under the Multimodal program will be required to provide a 30 percent match of non-federal funds.

Second, Act 89 altered the conditions under which prevailing wages must be paid on bridge and highway work. For local highway and bridge projects public work shall mean construction, reconstruction, demolition, alteration and repair work (other than maintenance) done under contract and paid for in whole or in part out of the funds of a public body if the estimated cost is in excess of \$100,000. Thus, any project within the definition with an estimated cost of less than \$100,000 would not be covered under the prevailing wage act.

Note that the change applies only to local projects, i.e., counties or municipalities, and does not cover construction projects other than highway or bridges. Thus, the state is not bound by the change in its highway and bridge contracting. Moreover, **any** construction in the Commonwealth using public funds other than local highways and bridges remains bound by the lower \$25,000 exemption from the prevailing wage requirement. In short, the bulk of all construction projects as measured by dollar value will continue to require prevailing wages. Not much tax money will be saved by this tiny adjustment.

Moreover, the arbitrary \$100,000 cutoff will almost certainly produce game playing by local government to avoid having contracts reach the \$100,000 mark. And that will be met by protests and possibly lawsuits by labor unions and union shop contractors. The prevailing wage act should be repealed, period. There are few, if any, examples of government interference in the market that are more distorting, costly to taxpayers and discriminatory than prevailing wage laws.

Third, Act 89 requires the Department of Transportation, in consultation with local governments and local transportation organizations, to study the feasibility of consolidation and mutual cooperation among local transportation organizations. The aim is to learn whether annual expenses can be reduced without loss of service. The study will look at whether creation of service regions or mutual cooperation pacts can reduce outlays. If study results indicate savings are possible and the parties recommend moving ahead the Department will help the process by waiving match requirements in an amount up to but not exceeding the net savings stemming from the recommended actions. The Department will also make available financial support for a capital project necessary to facilitate a consolidation or mutual cooperation pact.

In the case of the Pittsburgh region, consolidation of transit agencies is a non-starter in light of the tremendous differences in pay and benefits packages between the Port Authority and other regional transit agencies and owing to the fact that some of them use privatization of bus service extensively. However, mutual cooperation opportunities might well present themselves wherein carriers could allow other regional carriers to pick up and drop off passengers in border areas or within each other's districts where it makes economic sense and enhances service within the communities being served.

At present there is a study underway involving the Port Authority and southwest Pennsylvania transit agencies that was mandated by earlier legislation. The study is also looking at privatization of bus service opportunities at the Port Authority, possibly

emulating Westmoreland County and Denver, Colorado. That report is scheduled to be completed later this spring or early summer.

Finally, and unrelated to Act 89, it is worth noting that in 2007, Act 44 gave the Department authority to conduct performance reviews of all transit agencies in Pennsylvania receiving state funds with reviews to be conducted at regular intervals. After an agency is reviewed, the Department prepares a report identifying any problems, evaluates performance and effectiveness of the use of financial assistance, and recommends follow up actions. The report is sent to the Governor, to the chair and minority chair of the Transportation Committees in the Senate and the House. The report contains a description of the impact on the amount of and future eligibility for financial assistance based on the degree of compliance with the report's recommendations.

This is all well and good but surprisingly after nearly seven years there is as yet no performance review report for the Port Authority and SEPTA. It is surprising because these two agencies together receive almost 90 percent of base operating allocations for mass transit. Performance reviews of the small agencies are fine but clearly the state's taxpayers' interests would be far better served by knowing the effectiveness of the funds expended by the two large transportation organizations. Perhaps it would be prudent for the Transportation Committee chairs inquire as to whether reviews of PAT and SEPTA are forthcoming soon and, if not, why not.

Jake Haulk, Ph.D., President

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<p>Allegheny Institute for Public Policy 305 Mt. Lebanon Blvd.* Suite 208* Pittsburgh PA 15234 Phone (412) 440-0079 * Fax (412) 440-0085 E-mail: aipp@alleghenyinstitute.org</p>
