



A Tale of Two Commonwealth Budgets

Pennsylvania's divided government has trouble producing budgets before new fiscal years begin. That has been the case for some time. When the Legislature is controlled by one party and the Governor's office is held by the other party, one can expect deep disagreements over how much money to spend and how to raise the revenue to cover the expenditures.

A year ago this month, the state was in the early stages of a six month long stalemate before the Governor relented and signed a budget passed by the General Assembly and even then he used line item discretion to cut education and prison appropriations in half. The education cut was later restored after a lot of pressure was brought by school districts. At the same time the Treasurer continued to provide needed money to the prisons on the grounds that Federal court decisions required the funds to be provided.

Nonetheless, the public did learn some valuable things about how their government operates in terms of spending and revenue collecting. It has been a longstanding practice of the government to continue funding vital public services involving public health and safety. Police and prisons and other emergency operations do not shut down during a budget stalemate even though no appropriations by the General Assembly have been made for the new fiscal year. Article III, Section 24 of the Pennsylvania Constitution says "no money will be paid out of the Treasury except on appropriations made by law". Thus, funding for public safety and health spending supersedes the constitutional provision in Article III, Section 24.

Federal court rulings have, in effect, mandated that if prisoners are to be locked up, they have to be fed and given the basic necessities. It is important to note too that state tax revenue continues to be collected and that means the Revenue Department is fully operational and therefore its employees receive full pay and benefits.

However, as a result of a Pennsylvania Supreme Court ruling (see *Policy Brief Volume 16, Number 11* for details) it is currently the case that all state employees must be kept on the job and paid. Here again we see the courts overruling the Constitution, Article III, Section 24 in particular. In short, the Constitution as it relates to appropriations has been vitiated. In effect, the court said the appropriation levels made for departments and employee pay any fiscal year can be maintained into the next fiscal year as long as needed until a new budget is signed into law.

And so it was that through the six month stalemate no layoffs or suspensions of state departmental functions occurred in the second half of 2015 despite the absence of a Governor signed budget for fiscal year 2015-16. Other than the poor public image this created, there was

no damage to state services as the Commonwealth continued to operate as if there was a budget in place using the spending levels approved for 2014-15. Indeed, state employment rose and no doubt contracted wage hikes took place during the six months of the budget stalemate. Actual closing of “nonessential” departments and wholesale layoffs of employees would have been a real nightmare for all concerned and would have produced enormous pressure to get a budget passed. So, as might be expected the Supreme Court ruling made it more comfortable for both sides to refuse to move off their positions.

Notwithstanding the court ordered requirement to maintain all state departments and no layoffs during a budget stalemate, a very serious problem did arise. The court order did not require appropriations for non-state entities in terms of employment, the most important of which were public schools and social service organizations. While public school districts are creatures of the state, heavily regulated by the state and depend in varying degrees on state funding to cover expenditures, their employees work for the districts and not the state. As a result they are not covered by the court decision requiring all state employees to be kept on the job during the period when no budget is in place.

As a consequence of the failure to provide the school funding in the normal time frame, districts that depend heavily on state dollars to cover expenses found themselves in a financial crisis. Bear in mind that state funds as a share of total district revenues range from around 80 percent to under 15 percent. Districts that depend on receiving most of their funding or a major share of their funding from the Commonwealth found themselves in serious difficulty early in the school year. Some were forced to take appropriation anticipation loans to meet payroll. Of course, loans have to be repaid with interest, so poor districts were forced to divert scarce dollars to pay interest rather than using them to pay for regular expenses. The situation was so bad that when the Governor ill-advisedly used line item authority to reduce education funding by half, the school board association sued the Commonwealth.

Undoubtedly, the angst at the school districts and social services organizations created by the lack of funds last fiscal year has weighed heavily on the Legislature and the Governor this year prompting them to ensure there would be no repeat of last year’s prolonged failure to fund schools. Thus, shortly after the nominal June 30 deadline for producing the 2016-17 budget, the General Assembly passed a spending plan that included an increase in education funding. This was to ensure two things. First, that school funding would be in place, preventing the situation of last year; and second that the Governor would not veto the spending and engender another crisis that would provoke school district anger with an election just a few months away. The Governor accepted the plan without signing.

Ironically, the spending plan was passed without having adequate revenue sources in place to cover the increase in spending. That was all still to be worked out. But having voted for the spending and taking a lot of public relations heat for failure to produce a balanced budget as constitutionally required, the General Assembly acted fairly precipitously to piece together a new set of revenue sources to fill the \$1.5 billion gap. Whether the new revenue sources will deliver the revenue needed to fill the gap remains to be seen. There are serious questions about the ability of the hodgepodge of new taxes to do the job. Certainly, there are implementation issues; writing the regulations, collection mechanisms, etc., that must be put in place as with any new tax. Some of the new taxes such as the internet gaming will take months to put in place. And the new cigarette tax will undoubtedly push residents to buy out of state. Others could be hard to collect at all, such as internet downloads.

Using the two step process of passing the spending plan before adequate revenues were in place was almost surely a maneuver to force legislators to vote for the new taxes once the Governor had accepted the spending plan. Failure to fund the spending plan would have put school funding in jeopardy—the disaster that had to be avoided this year. Bear in mind that no state departments would have been closed down or employees laid off. It was largely about the schools and to a lesser degree to avoid the public relations hit for not passing a timely budget.

In any event it was a dangerous precedent setting gambit. Putting spending plans in place without adequate revenue to cover the expenditures could become a habit. This action treads dangerously on an already weakened Constitution that has been almost nullified by court decisions. If the Constitution becomes completely irrelevant regarding taxes and spending, what's to keep it from being swallowed up in other areas by more court rulings wherein the Court's budget rulings are used as precedents to justify countermanding the Constitution in the name of expedience?

Moreover, at some point the revenue enhancements needed to fill deliberate gaps created by increased spending could be delayed well into the following spring at which time levying new revenue sources adequate to fill the gap becomes very difficult and could lead to actions completely incompatible with good governance.

There is a reason the Constitution insists on a balanced budget to be ready before the start of a new fiscal year. It prevents the game playing that is a hallmark of poor governance. And when the Constitution is bypassed, ignored and overruled, who is in charge and on what authority?

Jake Haulk, Ph.D., President

*Policy Briefs may be reprinted as long as proper attribution is given.
For more information about this and other topics, please visit our website:
www.alleghenyinstitute.org*

<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>
