POLICY BRIEF

An electronic publication of
The Allegheny Institute for Public Policy

May 22, 2008 **Volume 8, Number 32**

Drink and Car Rental Taxes: Controversy Deepens

Sold as a way to provide dedicated funding for mass transit, the Act 44 levies on drinks and car rentals have been the subject of intense debate for the last several months. This is especially true of the drink tax as the bar and restaurant community has mobilized on the issue and will try to get a referendum asking voters to repeal the drink tax.

The debate will become even more intense now that it appears the new taxes will bring in more revenue than projected and ideas are already being floated about how to spend the excess. The County Treasurer recently noted that he would "anticipate projected revenues between $36 million and $40 million." Bear in mind the 2008 County budget contains a Transit Support Fund with revenues of $32 million—$28 million from the drink tax and $4 million from the car rental tax.

The expenditures tied to the projected revenues are $27.4 million to PAT as the dedicated local match for state and Federal money and the remaining $4.6 million which will be transferred to the debt service fund to assist with transit related debt.

2008 Transit Support Fund Budget

Revenues		Expenditures	
Car Rental Tax	$4,000,000	Services (To PAT)	$24,358,500
Drink Tax	$28,000,000	Contingency (To PAT)	$3,094,560
		Operating Transfers—Out	$4,546,940
Total	**$32,000,000**	**Total**	**$32,000,000**

So what happens if collections reach $8 million more than is needed for the transit purposes now outlined? There are sure to be plenty of ideas for grabbing that money. Right now there are two that have been brought to the public's attention. The first is contained in a proposed ordinance that would cut the drink tax rate from 10 percent to 5 percent. That bill also proposes to use any excess tax revenue in the Transit Fund "for the purpose of funding other operating or capital needs of the Port Authority". But is that wise given the desire to make PAT a leaner agency?

Note that, according to the County Executive's order from November of 2007, PAT is not supposed to get any of the matching funds "unless certain additional fiscal reforms are implemented by [PAT]". Specifically, the Executive is demanding union employees restructure their costs similar to the manner non-union employees did (salary and wage freezes and increases to health care contributions) and reduce legacy costs (not specified in the order, but health care costs for retired union workers are clearly implied).

Those changes won't come without a fight and will likely result in a strike by the transit union or a shut down by the Port Authority because of the state's withholding funds due to the absence of a local match. The union already holds nearly all of the cards in this battle. Why dangle the possibility of another $8 million in additional funding for the Port Authority, an action almost certain to convince unions to resist and foot drag even more? Any notion of sending the excess revenues to the Port Authority should be dropped forthwith.

That brings us to the second idea of what to do with the excess funds. In this latest notion, the excess revenue would be used for road and bridge projects. How could the County Executive, who has strenuously argued for dedicated taxes to fund mass transit, now stretch the use of the revenues to include road projects? A member of County Council offered his opinion that since Act 44 states "[Allegheny County] may obtain financial support for transit systems", and it is his belief that "by definition, transit systems are both mass transit and transportation", the County could use the money for roads and bridges.

He definitely did not get that definition from the statute itself. Section 1503 of the Act lists definitions but "transit systems" is not among them. There is evidence that roads and bridges are not part of the transit system defined by the Act or by the County. The chapter under which the state gave the County permission to levy the taxes is titled "Taxation for Public Transportation" which presumably does not include roads and bridges. The County fund holding the tax money is called the "Transit Support Fund", not the "Transit System Support Fund". And the 2008 County Capital Budget segments Bridges ($27 million budget), Roads ($21 million budget) and Port Authority ($5.3 million budget).

But do the public roads constitute part of the transit system? Could it be argued that buses use the commonly used roads and bridges and thus those roads are part of the transit system? How about cars used by County officials used to get to meetings? It may ultimately come down to a court case to decide what exactly constitutes a "transit system" in Allegheny County. Still, we would argue forcefully that based on Act 44 language and intent, the tax revenue is not to be used for roads and bridges.

Nevertheless, here's what should happen with the Transit Support Fund: there should be allowed a small reserve allowance, maybe 5 percent above what is needed for the transit match in order to guard against future revenue shortfalls. If the taxes keep bringing in far more revenue than is needed for the state match, then reductions in the tax rates should be made to reduce revenue to the needed amount—assuming of course the tax is not repealed in a voter referendum, which might well occur.

This all comes down to another case of "let the taxpayer beware." The rhetoric leading up to the creation of the new taxes was that Allegheny County needed to keep real estate taxes low and would no longer use property taxes for mass transit support. Subsequently, the new taxes were created, the money is rolling in, and already politicians are thinking up more ways to spend it and novel justifications for doing so.

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