

ISSUE BRIEF

SENATE POLICY DEVELOPMENT AND RESEARCH OFFICE

PREPARED IN CONJUNCTION WITH THE SENATE REPUBLICAN POLICY COMMITTEE

FY 2008-09 Budget

Background

The Pennsylvania Constitution requires the Governor to submit annually a budget to be considered and adopted by the General Assembly for the ensuing fiscal year. The General Assembly may add, change or delete any items in the budget proposed by the Governor, but the Governor retains veto power over the individual appropriations passed by the General Assembly. The Governor may reduce individual appropriations but may not increase them.

The legislators' decisions on the budget are reflected in the annual General Appropriation bill and individual appropriations bills. The General Appropriations bill is the primary legislation dealing with the budget. It contains appropriations for the executive, legislative and judicial departments, public schools and for the public debt. All other appropriations are made individually by separate legislation.

Constitutional provisions dictating the budget process include the following:

Article III, Section 11 – “The general appropriation bill shall embrace nothing but appropriations for the executive, legislative and judicial departments of the Commonwealth, for the public debt and for public schools. All other appropriations shall be made by separate bills, each embracing but one subject.”

Article III, Section 24 – “No money shall be paid out of the treasury, except on appropriations made by law and on warrant issued by the proper officers; but cash refunds of taxes, licenses, fees and other charges paid or collected, but not legally due, may be paid, as provided by law, without appropriation from the fund into which they were paid on warrant of the proper officer.”

Article III, Section 30 – “No appropriation shall be made to any charitable or educational institution not under the absolute control of the Commonwealth, other than normal schools established by law for the professional training of teachers for the public schools of the State, except by a vote of two-thirds of all the members elected to each House.”

Article IV, Section 16 – “The Governor shall have power to disapprove of any item or items of any bill, making appropriations of money, embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items of appropriation disapproved shall be void, unless re-passed according to the rules and limitations prescribed for the passage of other bills over the Executive veto.”

Article VIII, Section 12 – “Annually, at the times set by law, the Governor shall submit to the General Assembly: (a) A balanced operating budget for the ensuing fiscal year setting forth in detail (i) proposed expenditures classified by department or agency and by program and (ii) estimated revenues from all sources. If estimated revenues and available surplus are less than proposed expenditures, the Governor shall recommend specific additional sources of revenue sufficient to pay the deficiency and the estimated revenue to be derived from each source; (b) A capital budget for the ensuing fiscal year setting forth in detail proposed expenditures to be financed from the proceeds of obligations of the Commonwealth or of its agencies or authorities or from operating funds; and (c) A financial plan for not less than the next succeeding five fiscal years, which plan shall include for each such fiscal year: (i) Projected operating expenditures classified by department or agency and by program, in reasonable detail, and estimated revenues, by major categories, from existing and additional sources, and (ii) Projected expenditures for capital projects specifically itemized by purpose, and the proposed sources of financing each.”

Article VIII, Section 13 – “(a) Operating budget appropriations made by the General Assembly shall not exceed the actual and estimated revenues and surplus available in the same fiscal year. (b) The General Assembly shall adopt a capital budget for the ensuing fiscal year.

The Administrative Code of 1929, Act 175 of 1929, sections 613 and 617, contain the statutory language that provides for the timeline and implementation process of the Constitutional provisions. *Section 613* provides that “As soon as possible after the organization of the General Assembly, but not later than the first full week in February of each year, except in the case where a Governor has been elected for his first term of office and then no later than the first full week in March, the Governor shall submit to the General Assembly copies of original budget requests and all subsequent revised agency budget requests and a State budget and program and financial plan ...” *Section 617* provides that “...The fiscal year shall be the period beginning on July 1 of each calendar year and ending on June 30 of the calendar year next succeeding.”

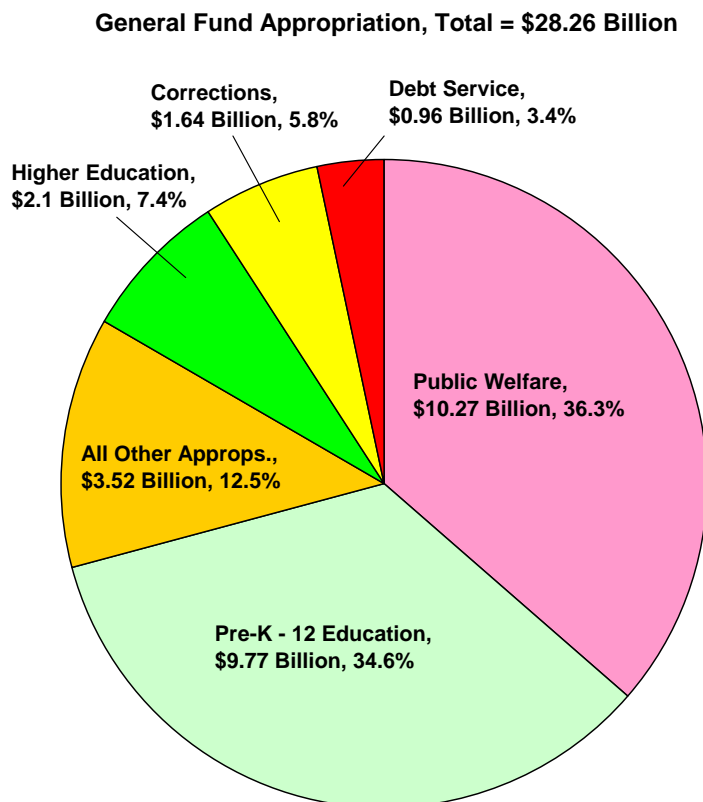
FY 2008-09 General Appropriation Act

On February 5, 2008, Governor Rendell appeared before a joint session of the General Assembly to present his budget address for FY 2008-09. The Governor’s budget proposal called for \$28.34 billion in General Fund spending. This represented a 4.2 percent increase – \$1.13 billion – over the spending plan for FY 2007-08, which was adjusted to include \$30.7 million in supplemental expenditures for a projected total of \$27.21 billion.

Shortly after receiving the Governor’s budget request, the Appropriations Committees of the House and Senate held public hearings to review individual agency requests for funds. These hearings provided an opportunity for legislators to review with agency executives the specific programmatic, financial and policy aspects of each agency’s budget request. Subsequent budget negotiations between the respective legislative caucuses and between the caucuses and the Governor were conducted leading up to the end of the fiscal year on June 30. These negotiations culminated with the passage of Senate Bill 1389 (LaValle), the Commonwealth’s General Appropriation bill, which Governor Rendell signed into law on July 4, 2008 as [Act 38A of 2008](#).

The General Appropriation Act of 2008 contains the \$28.26 billion state spending plan, which represents a 3.98 percent increase in spending over the final 2007-08 budget. This increase is below the 4.4 percent increase in the rate of inflation and below the 4.2 percent increase originally proposed by the Governor. No new or increased taxes or fees were necessary to fund the plan nor was it necessary to borrow funds from the Rainy Day Fund, although contributions to that fund were suspended for the current fiscal year. The accompanying pie chart is a summary of the FY 2008-09 General Fund Appropriations.

The education budget saw the most significant increase. More than 32 percent of the \$1.13 billion increase in the General Budget – or \$347.4 million – is for education (PreK-12 and higher education). PreK-12 education funding grew to nearly \$9.7 billion, with basic education seeing an overall 5.5 percent increase, \$274.7 million, for a total of \$5.2 billion. This represents the largest increase in basic education funding in at least two decades.



One of the key elements of the budget is a more equitable formula for funding basic education. As a result, each of the 501 school districts is guaranteed at least a three percent increase in basic education funding. The language for this formula is contained in [House Bill 1067](#) (Mann-D), which was enacted into law as Act 61 of 2008. Additionally, the budget included \$1.03 billion for special education funding, an increase of \$16.8 million; \$271.4 million for Accountability Block Grants; \$86.4 million for Pre-K Counts, an increase of \$11.4 million; \$65.1 million for tutoring programs; \$45 million for Classrooms for the Future; \$39.5 million for Head Start assistance; and \$14.5 million for science education support to elementary students. For additional information on the education funding legislation, please see the *FY 2008-09 Education Funding Issue Brief*.

Higher education benefited with \$699.1 million for the four-state related universities (Penn State, Pitt, Temple, Lincoln), \$519.2 million for the Commonwealth's 14 state-owned universities, \$281 million for community colleges; and nearly \$472.9 million for PHEAA to support students' higher education needs.

The 2008-09 budget also meets the critical needs of Pennsylvania's most vulnerable citizens by allocating \$10.27 billion to the Department of Public Welfare's budget, an increase of \$633.5 million. Through medical assistance, the Department will provide nearly \$5 billion, an increase of \$380 million, for health care to low-income families and children, seniors, and residents with disabilities or special needs. More than \$1.1 billion will be provided to programs supporting individuals with special needs due to mental retardation, and more than \$266 million will be provided to low-income residents in need of financial support.

To support child care assistance, \$224.1 million is provided for families under the Temporary Assistance to Needy Families (TANF) program, as well as for qualifying families formerly aided by TANF. Similarly, \$171.7 million is provided to help low-income families pay for day care costs. Services supporting individuals with autism and their families are funded with a \$20.1 million appropriation, an increase of \$10.1 million. The budget also provides approximately \$33.4 million in state funds for a one-percent cost-of-living increase for Mental Health/Mental Retardation services and community providers, and \$16.5 million in state funds for a one percent increase for nursing homes.

In addition, the budget contains the following appropriations: Department of Corrections, more than \$1.6 billion to run the state's 26 prisons and correctional institutions; Department of Community and Economic Development, \$617.8 million to support job growth and business enhancement and support programs; Department of Health, \$291.9 million for its health care initiatives; Department of Environmental Protection, \$229 million to ensure environmental safety and health; Department of Labor and Industry, \$128.3 million to support job training and employment development programs; and, Department of Agriculture, more than \$82.1 million for agricultural initiatives.

Legislation 2007-08

[Senate Bill 7](#) (Regola) would have amended the Constitution to provide for state spending limitations. The appropriation limit would have been defined as the total of the amounts approved as executive authorizations by the Governor plus the total amounts of preferred and non-preferred appropriations made by the General Assembly from the General Fund during the prior fiscal year adjusted by the lesser of: (1) the average percentage change in personal income in the Commonwealth for the three preceding calendar years; or (2) the average percentage change in inflation for the three preceding calendar years plus the average percentage change in the state population in the three preceding years. Referred to the Senate Appropriations Committee on June 28, 2007.

[Senate Bill 707](#) (Folmer) would have established the Taxpayer Protection Act. The legislation would have limited Commonwealth spending by establishing an appropriation limit. The appropriation limit was defined as the total spending by the Commonwealth during the prior fiscal year adjusted by the lesser of: (1) the average percentage change in personal income for the three preceding years; or (2) the average percentage change in inflation for the three preceding calendar years plus the average percentage change in Pennsylvania's population for the three preceding years. Referred to the Senate Appropriations Committee on June 28, 2007.

[Senate Bill 1122](#) (Piccola), as passed by the Senate, would have amended the Administrative Code to prohibit the furlough of executive branch employees if the General Appropriation Act is not enacted before the beginning of the fiscal year. The legislation provided that when a General Appropriation Act is not enacted before the beginning of a fiscal year, all state employees would be considered critical and essential employees. Passed the Senate 46-0 on February 4, 2008, and re-committed to the House Appropriations Committee on June 16, 2008.

[Senate Bill 1542](#) (Piccola) would have amended the Constitution to stipulate a timeline for all future state budgets. Under this timeline, the House of Representatives would be required to pass a General Appropriation bill by June 1, and the Senate would be required to pass the same bill in some form by June 15. If necessary, no later than June 20, a special Conference Committee consisting of six representatives and six senators would be created in accordance with the rules of the House and Senate to deliberate the General Appropriation bill. A final General Appropriation bill would then be presented to the Governor no later than June 30. If any of the deadlines are not met (June 1, June 15, June 20, or June 30) the daily pay for each member of the offending chamber or chambers would be docked until appropriate action is taken. Referred to the Senate Appropriations Committee on August 20, 2008.

[House Bill 2746](#) (Marsico) was identical to Senate Bill 1542. Referred to the House Appropriations Committee on August 21, 2008.

[Senate Bill 1543](#) (Piccola) would have amended The Administrative Code to add a subsection entitled General Appropriation Procedure. This subsection would have provided statutory language to implement the Constitutional amendment detailed in SB 1542. Referred to the Senate Appropriations Committee on August 20, 2008.

[House Bill 2745](#) (Marsico) was identical to Senate Bill 1543. Referred to the House Appropriations Committee on August 21, 2008.

Recent Court Decisions Affecting Budget Process

Council 13, American Federation of State, County and Municipal Employees, AFL-CIO et al v. Commonwealth of Pennsylvania et al.

On August 12, 2008, Commonwealth Court Judge Mary Hannah Leavitt issued an [opinion](#) in the above mentioned case. The Court ruled that Article III, section 24, of the Pennsylvania Constitution is not preempted by the federal Fair Labor Standards Act, and therefore, when state employees are required to work at the performance of their job duties after the pertinent fiscal year appropriation line item for their salaries and wages has been exhausted, the Governor is not required to pay, and is in fact prohibited from paying, those employees their regular salaries and wages from monies actually in the treasury but not yet appropriated by the General Assembly. Additionally, Judge Leavitt indicated that it is not mandatory to furlough workers but that it is up to the Governor to decide whether to furlough workers at that time, or to keep them on the job without pay.

Jubelirer, et al. Apts v. Rendell et al – No. 102 MAP 2006

On August 19, 2008, in an appeal from an earlier Commonwealth Court decision, Chief Justice Castille issued a [majority opinion](#) on behalf of the Supreme Court of Pennsylvania. The Court ruled that Article IV, section 16, of the Pennsylvania Constitution prohibits the Governor from effectively vetoing portions of the language defining an appropriation without disapproving the funds with which the language is associated. This ruling reversed a portion of a previous Commonwealth Court ruling relating to the Governor's use of the veto regarding the 2005-06 budget. In essence, the Governor cannot strike out language in a budget bill without also cancelling the corresponding authorized money.

Prepared by Charlie Dexter, Research Analyst, November 30, 2008.