

# ISSUE BRIEF

## SENATE POLICY DEVELOPMENT AND RESEARCH OFFICE

PREPARED IN CONJUNCTION WITH THE SENATE REPUBLICAN POLICY COMMITTEE

### Government Reform Actions 2007-08

In response to the public's call to make state government more open and accountable to its citizens, the Senate passed, with bipartisan support, numerous proposals during the 2007-08 Session designed to reform and open the operation of state government. While some of these initiatives were signed into law, many languished in the House of Representatives where they remained at the end of the session. A description of these initiatives follows.

#### **Senate Rules Reform**

On January 2, 2007, the Pennsylvania Senate launched the 2007-08 session with adoption of its operating rules. The rules included seven new ones designed to make the Senate process more open to the public, as follows:

1. limiting session times to between 8 am and 11 pm;
2. posting amendments to bills on the Internet before offering them on the Senate floor;
3. waiting at least six hours before voting on an amended bill or conference committee report;
4. posting all roll call votes on the Internet within 24 hours;
5. posting committee votes on bills on the Internet within 48 hours;
6. posting the Senate's Legislative Journal on the Internet within 45 days; and
7. updating the fiscal note on a bill with a fiscal impact, should the Senate Appropriations Committee amend it.

In addition, on July 9, 2007, the Senate approved a resolution prohibiting the use of public funds to pay for "robo-calls" (automated telephone calls). Specifically, [Senate Resolution 153](#) (Pileggi-R) prohibited costs of using automatic dialing-announcing devices to be paid for with funds appropriated to the Senate. Further, in October 2007, a live video feed of the Senate's floor action became available on the Internet.

#### **Enacted Reform Legislation**

*Right-to Know.* [Act 3 of 2008](#) (Senate Bill 1 - Pileggi) created the Right-to-Know Law. Under the new law, a record in the possession of a Commonwealth agency or local agency is presumed to be a public record unless the record is exempt under Section 708 of the Act, it is protected by a privilege, or it is exempt from disclosure under any other federal or state law or regulation, or judicial order or decree. The same presumption applies to legislative records and judicial financial records. Act 3 specifically requires a Commonwealth agency, a local agency, and a legislative agency to provide public records or legislative records in accordance with the Act. The agencies are prohibited from denying access to a public record or legislative record due to the intended use of the record. Act 3 also established the Office of Open Records in the Department of Community and Economic Development to provide information relating to implementation and enforcement of the Act, to provide training courses, to establish an internet website with information relating to the Act, to conduct a biannual review of the fees charged under the Act, and to review appeals of decisions by Commonwealth agencies.

*Separation of Federal and State Judicial Salaries.* [Act 30 of 2007](#) (House Bill 10 - D. O'Brien) severed the connection between federal and state judicial salaries. The legislation was originally introduced as [Senate Bill 44](#) (Piccola) and was passed by the Senate(49-1) in response to a Pennsylvania Supreme Court ruling that reinstated a pay raise for Pennsylvania judges. The ruling was rendered after repeal of [Act 44 of 2005](#), the law that provided for compensation of legislators, judges, and certain executive branch employees. The court found the repeal violated the constitutional provision that prohibits reduction of compensation during a judge's term in office. As a result, the 2005 pay raise remained in effect for judges, tying their salaries to their federal counterparts.

## **Reform Legislation Passed by the Senate**

*Sunshine Act Violations.* [Senate Bill 467](#) (Armstrong) would have amended Title 65 (Public Officers) of the Pennsylvania Consolidated Statutes to increase the penalty for a violation of the Sunshine Act. Fines for a first violation would have increased from a maximum of \$100 to a maximum of \$1,000, plus costs of prosecution; and \$2,000 plus costs of prosecution for a second or subsequent offense. The bill would have prohibited an agency from making a payment on behalf of or reimbursing a member of an agency for a fine or cost resulting from the member's violation. This bill passed the Senate (48-0) on May 7, 2007, but was not passed by the House before the end of the session.

*Elimination of "Lame Duck" Voting Sessions.* [Senate Bill 468](#) (Regola) would have amended the Constitution to prohibit lame duck sessions. Specifically, the bill would have prohibited the General Assembly from convening a voting session beginning on the first Tuesday after the first Monday in November through November 30 in any even-numbered year. The prohibition would not apply if the General Assembly was meeting in special session. This bill passed the Senate (41-8) on June 29, 2007, but was not passed by the House before the end of the session.

*Governmental Salary Information.* [Senate Bill 729](#) (Pileggi) would have created the Governmental Salary Information Act to require posting of certain governmental salary information on the Internet. The bill would have ordered the State Treasurer to establish a website to post, and update on a monthly basis, the following information for the officers and employees of Commonwealth agencies: name, title, department, salary or other rate of compensation, and supplemental compensation for the current month. In the case of legislative employees, the Treasurer would have been required to indicate whether the officer or employee is paid with funds controlled by the majority caucus or by the minority caucus, or by funds appropriated to compensate the staff of the officers elected by the Senate or the House of Representatives. At the request of an agency, the State Treasurer could redact the name of an individual regularly conducting undercover criminal investigations if the Treasurer determines it is necessary to protect his or her safety. The measure would have also required local agencies, as defined in the bill, to post on their official websites, and update on a monthly basis, similar information for their officers and employees. If the local government does not maintain a website, the information would have to be made available electronically or in writing, upon request, within five days. This bill passed the Senate (49-0) on May 22, 2007, but was not passed by the House before the end of the session.

*Openness in Consulting Contracts.* [Senate Bill 903](#) (Orie) would have amended Title 62 (Procurement) of the Pennsylvania Consolidated Statutes by adding Chapter 11, to be known as the Openness in Consulting Contracts Act. The Act would have established procedures for awarding Commonwealth contracts for legal, bond or management consulting contracts. Under these provisions, no Commonwealth agency could contract with any individual or business to provide these consulting services, unless such contracting would either adhere to the requirements of Chapter 11 or be competitively bid. All information relating to contract criteria, contracts awarded, and campaign contributions by winning consultants would be available for public inspection on the Internet. The legislation would have also made changes to Section 515 of Title 62. These modifications would mandate sole source contracting for services provided by attorneys or litigation consultants selected by the Office of General Counsel, the Office of Attorney General, the Department of Auditor General or the Treasury Department and could only occur when litigation against the Commonwealth is pending. The measure would have further required that written determinations authorizing sole source procurements be available for public inspection. This bill passed the Senate (50-0) on July 2, 2008, but was not passed by the House before the end of the session.

*Commonwealth Agency Bonus Ban.* [Senate Bill 986](#) (Eichelberger) would have created the Commonwealth Agency Bonus Ban Act to prohibit any Commonwealth agency, including the legislature and the courts, from paying a bonus to any employee. Under the provisions of the bill, an individual who intentionally approves or authorizes a bonus prohibited by the act would commit a third degree misdemeanor. The changes would not have abrogated any provision of an existing collective bargaining agreement or employment contract. This bill passed the Senate (48-0) on October 17, 2007, but was not passed by the House before the end of the session.

*Taxpayer-Funded Advertising Transparency.* [Senate Bill 1015](#) (Folmer) would have created the Taxpayer-Funded Advertising Transparency Act. For media advertising by a state agency paid for with monies appropriated from the General Fund or any special fund, the bill would have required a statement in such messages that they are funded wholly or partially by state taxpayers. The bill would not have applied where materials provided to the media were broadcast or published for free. This bill passed the Senate (49-0) on June 28, 2008, but was not passed by the House before the end of the session.

*Accountability Measures.* [Senate Bill 1201](#) (Armstrong) would have amended Title 74 (Transportation) of the Pennsylvania Consolidated Statutes to require the Department of Transportation to establish and maintain a log of executive and passenger flights using state aircraft. The log would have to contain the information listed in the bill and be publicly accessible on the Department's website. The log would have to be updated monthly and posted in a way that allows the public to search the information by the categories enumerated in the bill. The bill passed the Senate (50-0) on February 6, 2008 but was not passed by the House before the end of the session.

[Senate Bill 1499](#) (Folmer) would have amended the Fiscal Code to establish accountability measures for use of state vehicles, as follows:

- state employees who drive an average of 1,200 miles per month on official business (excludes travel to and from work) would qualify for a long-term assignment of a state vehicle;
- state employees assigned state vehicles would maintain monthly mileage logs, which would be posted on the Department of General Services' public website (undercover law enforcement agents would be excluded);
- vehicles assigned to state employees would display an "official use" license plate (undercover agents would be excluded); and
- state employees assigned state vehicles would be required to reimburse the state for insurance and gasoline, based proportionately on personal usage. This bill passed the Senate (50-0) on June 30, 2008, but was not passed by the House before the end of the session.

## **Other Reform Proposals**

*Reducing the Size of the Legislature.* [Senate Bill 248](#) (Pippy) would have amended the Constitution to reduce the size of the the Senate from 50 to 40 members and the House of Representatives from 203 to 161 members. If ratified, the amendment would have become effective after the 2010 Federal census. Upon the effective date of the amendment, the Senate and House would be required to reduce their budgets by 20 percent compared to the prior year. This bill was re-referred to the Senate Appropriations Committee on May 21, 2007.

*Term Limits.* [Senate Bill 814](#) (Eichelberger) would have amended the Constitution to limit the number of years that a state legislator can serve to no more than eight years in the Senate and eight years in the House, over the course of his or her lifetime. Senate Bill 814 was referred to the Senate State Government Committee.

*Initiative and Referendum.* [Senate Bill 137](#) (Rhoades) would have amended the Constitution to provide for direct initiative and referendum. The amendment would have established that the people reserve the right to themselves: 1) to propose laws and amendments to the Constitution and to adopt or reject them at the polls independent of the General Assembly; and 2) to approve or reject, at their own option, statutes or parts of statutes passed by the General Assembly. The proposed provisions also outlined the requirements for the initiative and referendum process. This bill was referred to the Senate State Government Committee.