

LEG REG REVIEW 2008, Nineteenth Issue

LEG REG REVIEW is a periodic newsletter produced by PHILLIPS ASSOCIATES, a professional lobbying and consultant firm based near the State Capitol. It contains news on the legislative and regulatory scene in Pennsylvania that may be useful to insurance producers, companies, and business interests. It is a free Member Service if you belong to the Pennsylvania Association of Health Underwriters or Manufacturers Association of South Central PA. Subscription information may be obtained by contacting PHILLIPS ASSOCIATES at 717/728-1217 FAX 717/728-1164 or e-mail xenobun@aol.com. Please email jtrout2792@aol.com supplying both your e-mail and fax numbers in order to convert this publication to e-mail. If you wish to no longer receive it, please tell us.

SMOKING BAN DELAYED

A centerpiece of Governor Rendell's Prescription for Pennsylvania was stalled last week when a Conference Committee compromise on SB 246 (Greenleaf (R-Montgomery)) was voted down by the Senate 19-31. Good news to backers was House acceptance by a 163-38 vote. The stumbling block arose after Governor Rendell said he would veto a bill that preempted Philadelphia's own smoking ban. Senators from southwestern and northeastern PA felt that their local ordinances should also be allowed to stand. The measure bans smoking in public places and the Conference Committee was finally able to craft a definition as to what "public" means.

PHC4 SUNSET DEADLINE LOOMS

Discontinuance of the PA Health Cost Care Containment Council (PHC4) looms as the General Assembly approaches a June 30 sunset date. Despite being hailed as a national model for quality transparency and as an essential part of curbing hospital-acquired infections per 2007 legislation, the independent body has been ensnared in a dispute with the hospitals over the methodology used to collect the data. PHC4 also is at the center of the House Republican Caucus health reform package because of HB 2028 (Stern-R-Blair) which expands the PHC4 mission to compare doctor prices in order to promote transparency and more consumerism in the use of health care.

LOTS OF HEALTH REFORM DEVELOPMENTS

- The Pennsylvania Association of Health Underwriters (PAHU) held its June 4 Day on the Hill with brokers from northwest, northeast and north central PA urging opposition to SB 1137 (Access to Basic Care plan, formerly known as Cover All Pennsylvanians) and HB 2005 (mandatory 85% claims ratio for health insurers, etc.). Other PAHU June Days on the Hill are scheduled for June 10 (Greater Philadelphia), 17, (central PA) and 24 (Pittsburgh).
- Senate Democrats Jay Costa (Allegheny) and Vincent Hughes (Phila.) held a press conference to announce introduction of a resolution to discharge SB 1137 from the Senate Banking & Insurance Committee, where it has been held since passage by the House earlier this spring. Among other things, the Senators and other presenters claimed that inaction was costing uninsured Pennsylvanians their health and even their lives.
- The Senate Banking & Insurance Committee convened a hearing on a specific part of SB 1137, which of tying reauthorization of the MCARE abatement fund (also known as the retention account) to funding Governor Rendell's Access to Basic Care (ABC) proposal. The Office of Health Care Reform held that the two program's aims were linked while hospitals and doctors said that reauthorization of MCARE abatement fund should stand on its own. SB 1137 says that doctors using the MCARE abatement fund to defray some of their state medical malpractice insurance costs would be required to service ABC patients.

HOUSE TO TAKE UP INDEPENDENT CONTRACTOR BILL

The House is expected to take up House Bill 2400 (Lentz-D-Delaware) next week. This legislation's purpose is to tighten up rules regarding business use of independent contractors. Advocates claim that significant abuse exists by employers leading to lost unemployment compensation taxes and increasing Workers' Compensation fraud. Business community opponents say that HB 2400 presumes employer guilt and will discourage legitimate independent contractor use.

SENATE REPUBLICANS PLAN TO UNVEIL HEALTH REFORM PACKAGE

According to the June 6 *Senate Republican News Brief*, Senate Republicans will unveil a comprehensive health care package next week "designed to improve access to affordable health care by expanding proven initiatives and implementing new innovations". Specifics of the package are not yet available nor is it clear whether or not parts of Senator Mike Folmer's (R-Lebanon) own health care package will be included. One of Folmer's bills attracting attention would establish a risk pool in order to meet the needs of those not having access to insurance.

BUSINESS AND FISCAL ISSUES

- **PROPERTY INSURANCE TAX** A bill to fund water infrastructure through state borrowing (SB 2) is expected to receive consideration next week by the Senate Appropriations Committee. A difference between this bill and the Administration is that Rendell wants to tax homeowner and commercial insurance premiums by 20 cents per \$100 of premium in order to leverage borrowing for flood control projects. Rendell's proposal is contained within HB 1989 (Wansacz-D-Lackawanna), a bill voted out of the House Appropriations Committee but which did not see a full House vote last week.
- **BUSINESS TAX RELIEF A Senate Republican business tax relief package of four bills was approved by the Senate Finance Committee. These include:**
 - SB 1385 (Corman-R-Centre) expands the cap on Net Operating Loss provision of the Corporate Net Income Tax to 20% of taxable income
 - SB 1386 (Regola-R-Westmoreland) exempts those making \$37,000 or less from PA income taxes
 - SB 1387 (Vance-R-Cumberland) doubles the amount small businesses may deduct for machinery and equipment
 - SB 1388 (Eichelberger-R-Blair) expands the Corporate Net Income Tax sales factor to 85% versus the present system of counting sales factor at 70% with property and payroll each making up 15%.
- **REVENUE OFF** General Fund revenue for May came in \$142.2 million under estimate, raising questions as to whether the Rendell Administration projected surplus of \$427.2 million is valid. The shortfall came in Corporate Net Income taxes as well as the Personal Income Tax. Sales tax revenues and non-tax revenues were also below expectations.

SENATE BANKING & INSURANCE COMMITTEE MOVES LEGISLATION

The Senate Banking & Insurance Committee approved **SB 250** (Browne-R-Lehigh) preventing banks from requiring property insurance in excess of the structure value (not the land). The House version is HB 2428 (Frankel-D-Allegheny). Also approved was **SB 260** (Rhoades-R-Schuylkill) to prohibit health insurers from pushing mail order pharmacies. A third bill, **SB 1370** (Earll-R-Erie) permits shareholders to serve on insurance company nominating and compensation committees.

REGULATORY UPDATE

The Insurance Department received a request from the Joint Underwriting Association (JUA) to reduce Medical Malpractice rates by 4.4% for institutional and non-institutional health care providers. JUA is the market of last resort in the Medical Malpractice insurance market. The JUA request is seen as further indication that some of the stress affecting this particular market has eased with more carriers and risk retention groups absorbing some of the demand.