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Special Session On Transportation Funding Imminent As Feds Reject Tolling Interstate 80

Governor Rendell said he will call for a special legislative session to develop transportation funding solutions now that the feds have rejected Pennsylvania's attempt to toll Interstate 80, which runs along the northern tier of the state. Under the state plan, I-80 toll money would finance the re-building of the interstate, but also provide between \$900 million and \$1 billion a year for roads, bridges and mass transit. The rejection of the plan by the Federal Highway Administration leaves an gaping hole in a state budget that is already running in the red.

"We have to deal with the fallout of this decision; there is no way that we can just do nothing," Governor Rendell said at a press conference in Harrisburg. "We'll look at every option on the table. This is a dire situation with significant consequences."

The governor's office said that without I-80 toll revenues, funding for roads and bridges will be cut by about \$300 million per year. This means PennDOT will not be able to repair about 100 bridges and 300 miles of roads each year. Funding for 73 public transit systems that provide more than 400 million rides a year to residents in all 67 counties will drop by \$160 million per year, resulting in service cuts and fewer capital improvement projects.

Despite record state and federal investments in highways and bridges in the past seven years, Pennsylvania still has approximately 5,600 structurally deficient bridges - the highest number of any state - and approximately 6,000 miles of roads that are in need of repair.

The tolling plan stems from Act 44 of 2007 that required the Pennsylvania Turnpike Commission to fund road, bridge and mass transit projects through an increase in its tolls, and through tolls collected on I-80. Act 44 required the Commission to lease I-80 from PennDOT. A federal law allows three states to toll Interstates to raise additional transportation revenue. Pennsylvania filled the third slot. No other state, though, approved implementing legislation.

A powerful advocate of tolling I-80, House Transportation Committee Chairman Joe Markosek, D-Allegheny, said he supports the governor's decision to call a special legislative session.

"Pennsylvania's transportation system impacts every resident, business and visitor," Markosek said. "The significant backlog of critical projects hinders the state's economic competitiveness, threatens our safety and impacts our people, businesses, and environment."

No date has been set for the start of the session.\

Poll: Specter Leads Sestak among Pennsylvania Democrats, AG Corbett Takes Big Lead in GOP Governor's Primary

Sen. Arlen Specter has a 53 percent to 32 percent lead among likely Democratic primary voters over U.S. Rep. Joe Sestak in the Senate race, according to a recent poll from Quinnipiac University. The poll also shows that Attorney General Tom Corbett holds a 58 percent to seven percent lead over challenger State House Member Sam Rohrer, R-Berks, according to a Quinnipiac University poll released today.

April 8, 2010
Volume 14, Issue 14

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Three candidates in the Democratic primary for Governor are bunched together with Allegheny County Executive Dan Onorato at 20 percent, former U.S. Senate candidate Joe Hoeffel at 15 percent and State Auditor General Jack Wagner at 13 percent. A fourth hopeful, State Sen. Tony Williams, gets 5 percent, while 47 percent are undecided and 70 percent of those who name a candidate say they might change their mind.

In the Democratic Senate race, which has received national attention since Specter switched parties last year after three decades in the Senate as a Republican, only 15 percent of voters are undecided, not nearly enough to switch the outcome even if they all backed Sestak.

"With less than six weeks until the May 18 primary, Sen. Arlen Specter looks to be in solid shape for the Democratic nomination. Not only would Sestak have to win every undecided vote, he also would have to take away some who say they are for Specter. While that is certainly possible, it is a steep hill for Sestak to climb because Specter is such a known quantity to Pennsylvania Democrats, who generally like him," said Peter A. Brown, assistant director of the Quinnipiac University Polling Institute.

Brown said the poll shows that the Democratic candidates for Governor have been virtually invisible to the voters: 64 percent of Democrats don't know enough about Onorato to have an opinion, while 73 percent feel that way about Wagner; 75 percent about Hoeffel and 90 percent about Williams.

"Dan Onorato remains slightly ahead as he has since the campaign began, but his margin is so small and the undecided vote so large that at this point the race is a three-way toss-up," said Brown. "With the candidates so unknown and just under half the voters undecided almost anything can happen, although history tells us in situations like this one, the winner will be the candidate with the largest and most effective television ad campaign and ground operation to bring out their vote. With that level of anonymity, anything is possible. This is clearly a race that is yet to be decided."

Draft of Proposed Water Standards Expected on April 15; Compliance Could Cost Drilling, Mining Industries Billions

Proposed water regulations from the Department of Environmental Protection (DEP) that would restrict the level of Total Dissolved Solids (TDS) at water discharge points are expected to be public on April 15, 2010, according to industry sources following the development of the new rules. Even minimally restrictive rules could cost mining, drilling and other industries in Pennsylvania billions of dollars in up-front capital costs and tens of millions in yearly operation and maintenance costs, industry officials said.

"We'll know a lot more of course after we have a chance to read the proposed language," said George Ellis, President of the Pennsylvania Coal Association. "But whatever the proposal it's going to cost us a lot of money for something we believe is totally unnecessary."

After a public comment period, DEP plans to send the proposed regulations to its Environmental Quality Board, which could approve them as early as June.

A DEP official said the proposed Pennsylvania standards stem from the increased use of a drilling technique used for natural gas extraction in the Marcellus Shale, a formation that runs through a large swath of western Pennsylvania. The drilling technique applies water under high pressure, known as hydraulic fracturing, to increase gas extraction.

The regulations, though, would cover all industries with new or increased discharges of TDS, including manufacturing industries, DEP officials said.

Ellis said an internal survey of his association members determined the coal mining industry alone would have to spend \$1.3 billion to buy the technology required to comply with the TDS standards, and spend an additional \$133 million a year in operating and maintenance costs.

"We would have to use a reverse osmosis technology to comply with the standards, a technology we would have to buy overseas," Ellis said.

The Executive Director of the Independent Oil & Gas Association of Pennsylvania, Louis D. D'Amico, said companies that treat the wastewater from drilling operations estimate their costs would triple if the regulations are approved.

TDS is comprised of inorganic salts, organic matter and other dissolved materials in water. They can be naturally present in water or the result of runoff, mining or industrial or municipal treatment of water. The federal government and most states have no TDS regulations.

Lawmakers, Governor's Office Keep Watchful Eye on Revenue Numbers As Fiscal Deadline Approaches

Pennsylvania lawmakers and Governor Rendell's office will monitor April tax collections for any turnaround in the subpar collection numbers over the first three quarters of the fiscal year. Legislative analysts say serious budget negotiations will begin once the April collection figures are in at the end of

the month.

"April is the biggest collection month," said one Senate Appropriations staffer. "If there is any turn around this is where we'll see it, and we'll have a better idea what we're are looking at in terms of numbers up to the end of the fiscal year."

Collections for every month to date starting at the beginning of the fiscal year in July have come in less than anticipated. The most recent numbers showing the March collections were \$243 million, or 5.9 percent, less than anticipated. Fiscal year-to-date General Fund collections total \$19.9 billion, which is \$719.6 million, or 3.5 percent, below estimate, according to figures released by the Department of Revenue.

Still, the Revenue Department believes that the budget Governor Rendell proposed in February can still be approved as a balanced spending plan – required by the state Constitution.

"We really expect April to be much better than March," said Stephanie Weyant, Press Secretary for Revenue. "We also believe a tax amnesty program starting in late April will bring in nearly \$200 million more by the time the fiscal year ends on June 30."

The Department reported that sales tax receipts totaled \$569 million for March, \$50.9 million below estimate, attributable partly to inclement weather during February. Year-to-date sales tax collections total \$5.9 billion, which is \$316.2 million, or 5.1 percent, less than anticipated.

Personal income tax (PIT) revenue in March was \$811.9 million, \$57.7 million above estimate. This brings year-to-date PIT collections to \$6.8 billion, which is \$135.9 million, or 2 percent, below estimate.

March corporation tax revenue of \$2.3 billion was \$264.2 million below estimate. The Revenue Department estimates that approximately \$140 million, or 53 percent, of the March shortfall is due to lower than expected annual electric utility gross receipts tax payments. Year-to-date corporation tax collections total \$3.5 billion, which is \$283.2 million, or 7.5 percent, below estimate.

Other General Fund revenue figures for the month included \$68.2 million in inheritance tax, \$5.1 million below estimate, bringing the year-to-date total to \$545.7 million, which is \$13 million below estimate.

PA EXECUTIVE & LEGISLATIVE ACTIONS

Following is a listing of regulatory and executive action for the week of April 5,2010. The House and Senate were not in session. Members return to session on April 19, 2010.

Regulations, Fees Approved for Court Interpreters

The Supreme Court of Pennsylvania has approved regulations governing the appointment and use of court interpreters to assist persons with limited English skills or who are deaf or hearing-impaired during court proceedings, according to a statement from the Administrative Office of Pennsylvania Courts (AOPC).

The regulations are designed to complement the Interpreter Certification Program established by the Supreme Court in 2004 within the AOPC.

The program and the regulations are intended to meet an often unfulfilled need within the courts for qualified interpreters. Pennsylvania's courts are routinely confronted with individuals who speak more than 50 languages or are hearing impaired. The most common demand is for interpreters of Spanish, Mandarin Chinese, Russian, Vietnamese, Arabic and sign language.

Duane Morris Government Affairs LLC will continue to monitor these and other important issues. Contact us if you have an issue you would like additional information on, or to be removed from the Capitol Commentary distribution list:

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