

## Senate of Pennsylvania

### SENATE DEMOCRATIC WRAP-UP FOR THE 1985- 1986 LEGISLATIVE SESSION

The Pennsylvania Senate recessed for the summer July 2 shortly after approving a budget for the new fiscal year and a host of legislation ranging from reforming the Public Utility Commission to revamping economic development programs.

The commonwealth's general fund spending plan of \$9.7 billion was enacted 24 hours into the new fiscal year July 1, ending threats of delayed welfare checks and a halt to state services. The delay in a budget agreement stemmed from an impasse on a formula to distribute surplus money for additional basic school subsidies. Once that was worked out, the budget passed smoothly with most legislators and the governor claiming it was a document that was fair to all Pennsylvanians.

An end-of-the-fiscal-year surplus enabled the budget to be accompanied with cuts in personal income and business taxes.

Despite the reduction in taxes, several Democratic initiatives such as aid to distressed cities, food programs for the poor and shelters for the homeless were included in the new budget.

At the insistence of Democrats, a job creation tax credit was enacted with the rest of the package of budget and tax bills to give employers an incentive to expand their enterprises in Pennsylvania.

Also tied to the budget was the enactment of a package of bills to revamp the state's ongoing economic development programs. Begun two years ago to spur business development, transform blighted areas into enterprise zones and help schools upgrade their technical equipment, these programs were funded by appropriations into a special Pennsylvania Economic Revitalization Fund (PERF). A failure by the administration to target these programs properly left much of the special fund unspent. The new bills revise the PERF programs so that they can become effective tools for economic development.

Legislators also approved a second phase to the state's ambitious bridge building program, adding 3,000 bridges to a long list of spans earmarked three years ago for rehabilitation. The undertaking, capitalized by bond revenues to be retired by a special axle tax, will cost \$3 billion over a number of years.

Other capital budgets enacted include projects that will hopefully boost the economies of their surrounding areas and require matching local financial commitments. These bond financed projects such as building a Philadelphia convention center and improving the Greater Pittsburgh International Airport will be retired by a special sinking fund created by realty transfer tax proceeds.

Flood aid to northeastern and western counties ravaged by storms in the last couple of years, the subject of bitter dispute between Democrats and Republicans, was authorized by the close of this fiscal year. Senate Democrats had been incensed by Republican maneuvers last December to delay flood aid to counties damaged last year by Hurricane Gloria and heavy November rains. A bill buttonholed in committee by the Senate Republicans was since released and, along with a second flood aid bill, enacted.

Basically satisfied, Democratic legislators from those areas may still wonder: What took so long?

The summer recess was also proceeded by the approval of major legislation to control electric rates for consumers and to permit limited interstate banking.

Under legislation to continue a reformed Public Utility Commission, legislators inserted a provision to prevent electric utilities from charging ratepayers the cost of excess generating capacity. A companion bill was also approved to encourage the use of Pennsylvania coal by generating plants by allowing construction work in progress to be included in the rate base only if Pennsylvania coal is to be used.

Pennsylvania banks can acquire banks in seven neighboring states and Washington D.C. and vice versa under interstate banking legislation enacted the end of June. After 1990, the new law permits the state's borders to be open for interstate banking with any state having reciprocal legislation.

A furor over whether or not the insurance industry could use a person's sex in determining car insurance rates was resolved, at least for the time being, when the legislature overturned the governor's veto on a bill permitting gender based rates. Most legislators felt young women drivers would have been unfairly penalized under a gender-free rating system.

Larger insurance issues, such as runaway liability insurance costs, were dealt with preliminarily, but much remains to be done. Municipalities, professionals, small businesses are all besieged by mounting liability insurance costs. Some relief may come to certain groups through recently approved legislation to limit the liability of recreational organizers, such as Little League coaches, and amusement operators. Other legislation would permit municipalities to have joint liability insurance, limit liability insurance cancellations and require insurers to report their loss experiences to the Insurance Department as part of their rate request information.

Since convening the last year of the current two-year session in January, the legislature acted on such diverse measures as requiring the registration of pesticide operators, cracking down on underage drinkers by providing for offenders to lose their driver's licenses, and requiring the state's Workers Compensation bureau to expand its complement of referees to cope with a backlog of cases.

Bills were also passed to elect the state's high court judges by regions, to require the judiciary to be more precise in accounting its expenses, and to prohibit statewide judicial candidates from crossfiling.

The war on crime was continued by the passage of legislation aimed at curbing such diverse offenses as shopping cart and bank card thefts. Additionally, a sentencing bill passed that would mandate at least five years in jail for a convicted rapist, and add aggravating circumstances in seeking a death penalty for a convicted murderer. Also, child abuse victims were given the right under other legislation to testify by videotape rather than by court appearance. And, under another measure, suspected domestic violence offenders could be arrested without warrants.

A growing prison population, no doubt at least partially the result of tougher laws, in recent years has given rise to the prospects of private prisons for less serious offenders. The legislature, however, this session placed a moratorium on private prisons while the matter is given further study

This session reflected some particularly current problems by the passage of bills to pay for research on the contamination of homes by radon, a gas formed by the deterioration of uranium deposits, and to indemnify farmers for the continuing liquidation of poultry flocks afflicted with avian flu.

Turnpike projects now underway are the first phase of a multi-billion dollar expansion and improvement program made possible by the enactment of legislation earlier in the session.

Senior citizens have been helped with legislation expanding income eligibility for tax and rent rebates and low car registration fees. Also, homeowners 55 and older were given a one-time exemption from paying the state income tax on profits derived from the sale of their homes.

There were also bills enacted related to the increased cost of living which included raising hunting license fees, increasing auto emission inspection fees and extending the 18 percent cap on interest rates.

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***Legislation is coded as follows:***

- \* *Senate Passage*
- \*\* *Senate and House Passage*
- \*\*\* *Became Law*
- V *Vetoed by the Governor*

**Budget and Finance**

\*\*\***1986-87 General Fund Budget** -- The commonwealth's general fund budget for 1986-87 was approved as a conference committee report on **SB 1416** by a Senate vote of 49-1 July 1. On the same day it was signed into **Act 5A** by the governor.

Enactment of the \$9.3 billion spending plan missed the fiscal year-end deadline by one day, threatening to delay welfare checks and otherwise bring state services to a halt.

However, the late signing was mollified by praise from leaders of both sides of the aisle who noted the budget was accompanied by personal and business income tax cuts (see tax story) while providing needed funds for economic development and increased spending for education.

The general fund budget was also accompanied by the passage of 42 separate bills of non-preferred appropriations for various educational and health institutions, bringing total state general fund spending for the new fiscal year to \$9,689,413,000, or \$311,446,000 more than the \$9,377,967,000 spent this past year.

Democrats lauded the inclusion in the new budget of a first time appropriation of \$5 million to assist bankrupt or near bankrupt communities regain their feet. Another Democratic initiative led to an agreement to use more than \$38 million in surplus funds for supplemental school subsidies, with a distribution formula that will ensure that a large portion will go to distressed school districts.

Another first-time feature in the budget is a \$7 million appropriation for a women, infants and children (WIC) nutritional aid program. Until this year, the program was totally federally funded. But with federal cutbacks, Democrats favored state spending to pick up the slack on the program. Democrats were also responsible for restoring an \$8 million food bank program to take care of the state's hungry. The governor had proposed only a \$1.5 million appropriation.

For the second year in a row, the general fund budget appropriates \$25 million for a "Sunny Day Fund" to attract businesses to Pennsylvania, and \$25 million for a "Rainy Day Fund" to stabilize Pennsylvania's taxes.

The budget bill also contains appropriations from a special Pennsylvania Economic Revitalization Fund (PERF) for some 11 revised economic development programs (see community and economic development). When PERF was established two years ago, it was to be funded by \$190 million in bond sales. However, largely because of last year's budget surplus, \$117 million of general fund revenues was transferred to PERF so that funding for such diverse programs as business incubator loans and a conservation corps employing young people could get underway. Much of this money remains in the current budget, with programs revamped to become more effective. Other programs were added to target aid to hardship communities such as \$1 million to revitalize the Shanango Valley, \$2 million for the Mon Valley and \$1 million for the Beaver Valley.

One of the largest items in the budget is the \$2.17 billion state subsidy for basic education, an increase of \$125.4 million over 1985-86 (see education). After prompting by Democratic legislators, \$38.6 million was added in the budget to supplement the school subsidies.

Of the \$38.6 million school subsidy supplement, \$4.6 million will be distributed to distressed school districts.

Separate appropriations of \$7 million and \$28 million were also included as state school aid to improve the quality of education.

In the area of higher education, state colleges will receive \$283,987,000 under the new budget, compared with \$268,156,000 for 1985-86.

A Human Services Development Fund, which last year contained \$18 million in state and federal funds, was given a \$10 million increase in state money. Language in the budget bill provided that checks from the \$28 million fund could not be distributed around the state, with the usual self-serving publicity that has become a trademark of the current administration, until after Dec. 1, 1986, when the forthcoming gubernatorial election would be over.

However, the controlling language itself became a political football when the Republican gubernatorial candidate, with cooperation from the current administration, interpreted it to mean that aid to the counties was threatened. This distortion alarmed counties to such an extent, that the legislature was recalled from its summer break to remove the restrictive language. Democratic legislators, deriding the hypocrisy of the Republicans' false tears for the poor, used the occasion of the special session to add \$7.2 million to the budget for various drug and alcohol programs, child abuse prevention, and community legal services.

The additional funds and the repeal of the distribution language for the human services fund were inserted in **SB 900**, which passed the Senate unanimously. The \$7.2 million was then stripped from the bill when the governor signed it, fulfilling Democratic predictions that Republican concern for the needy would ultimately prove false.

The new budget also incorporates Democratic initiatives unveiled earlier this year in project PREPARE to target money for effective job training programs. A new state appropriation of \$7 million is contained in the budget for this purpose. Also, a \$3 million state appropriation is earmarked specifically for "job training for welfare recipients dropped from the rolls.

\*\*\***Non-Preferred Appropriations** -- A package of more than 40 non-preferred appropriations bills totaling \$476,184,000 was approved in separate bills (**HBs 2509-2550**, now **Acts 12A-52A**) for various educational, health and charitable institutions.

These bills, which are non-binding appropriations that require a two-thirds approval of the legislature, bring total general fund spending for 1986-87 to about \$9.7 billion.

Spending on the non-preferreds compares to about \$450 million enacted last year.

The largest portion of the non-preferred appropriations, more than \$400 million, goes to the four state related universities. These appropriations, with the amount of increase over 1985-86 in parentheses, are:

**HB 2509**, Penn State, \$181,924,000 (\$10,286,000);  
**HB 2510**, University of Pittsburgh, \$100,324,000 (\$5,668,000);  
**HB 2511**, Temple University, \$110,283,000 (\$6,090,000); and  
**HB 2512**, Lincoln University, \$7,563,000 (\$541,000).

The largest non-state related school appropriation of \$31,224,000 was approved for the University of Pennsylvania under **HB 2513**, an increase of \$2,685,000 over 1985-86."

Some other schools receiving appropriations, with the increases in parentheses, are:

Western Psychiatric Institute, \$6,848,000 (\$326,000);  
Drexel University, \$4,934,000 (\$279,000);  
Hahnemann Hospital, \$4,849,000 (\$511,000);  
Philadelphia College of Osteopathic Medicine, \$4,730,000(\$268,000);  
Medical College of Pennsylvania, \$3,427,000 (\$194,000);  
Pennsylvania College of Optometry, \$1,402,000 (\$179,000); and  
Pennsylvania College of podiatric Medicine, \$987,000 (\$150,000).

\*\*\* **Tax Cuts** -- With a fiscal 1985-86 year-end revenue surplus of nearly a quarter of a billion dollars, the General Assembly -- as part of its action on a tax and spending plan for fiscal 1986-87 -- approved \$165 million in tax cuts for citizens and businesses.

On a vote of 46-4 in the Senate and 198-0 in the House, the legislature adopted a conference committee report on legislation (**SB 560, Act 77/1986**) that was to reduce the state's personal income tax (PIT) rate from 2.2 percent to 2.1 percent and cut the corporate net income (CNI) tax rate from 9.5 percent to 8.5 percent.

The cut in the PIT rate was to become effective September 1, 1986 while the reduction in the CNI tax was made effective January 1, 1987.

In an effort to provide additional tax relief to small businesses, the legislation exempts the first \$50,000 of a business's valuation from the state's capital stock and franchise tax and reduces the prepayment of tentative capital stock and franchise tax from 85 to 80 percent.

Other provisions of **Act 77** will grant persons 55 years of age and older a one-time exclusion from the payment of the state income tax on the net profit from the sale of their homes, close

so-called "loopholes" in the state's Realty Transfer Tax, and increase the threshold level for an individual's filing of a declaration of estimated tax on income for which no tax has been withheld from \$1,000 to \$2,500.

The one-time tax break for older Pennsylvanians who sell their homes represented the original provisions of **Senate Bill 560** when it first passed the Senate last year. As enacted, the exclusion will apply to homes sold after July 1, 1987. After that date, persons 55 years of age or older who sell their homes will not have to pay state income tax on up to \$100,000 of net gain resulting from the sale. Married couples filing separate returns will be entitled to a maximum tax exclusion on \$50,000 of net gain from the sale of their home. The one-time state tax exclusion on home sale profit for senior citizens is similar to one already permitted by federal tax law.

The provisions of **Act 77** relating to the state's Realty Transfer Tax are intended to actually raise revenue for the state, local school districts and municipalities. Specifically, the provisions seek to prevent the current avoidance of the transfer tax by commercial entities which transfer real estate ownership of shopping malls, office buildings and apartment complexes (via sale of stock, transfer of partnership shares, or other transaction) without transfer of a deed.

In the prior fiscal year, the General Assembly had enacted a measure (**HB 136, Act 29/1985**) reducing the state's personal income tax (PIT) rate from 2.35 percent to 2.2 percent effective January 1, 1986. That legislation also provided for various forms of business tax relief and created a three-year \$25 million investment tax credit program to benefit businesses, such as the steel industry, which suffered substantial losses during the 1982 economic recession.

\*\*\* **"All Weather" Funds** -- Enacted was legislation (**HB 285, Act 32/1985**) creating so-called "sunny day" and "rainy day" accounts for the purpose of attracting businesses to Pennsylvania and stabilizing taxes during economic downturns. The fiscal 1985-86 and 1986-87 state budgets authorized annual appropriations of \$25 million for each fund.

The "rainy day" fund, defined as the Tax Stabilization Reserve Fund, was to be used "to minimize future revenue shortfalls and deficits, provide greater continuity and predictability in funding of vital government services and minimize the need to increase taxes to balance the budget of the Commonwealth during periods of economic distress." In other words, the fund would provide a revenue cushion to be used for "rainy days."

The "sunny day" fund was intended to bolster Pennsylvania's economy and to attract industrial, manufacturing or research and development enterprises to the commonwealth.

The legislation specified that the governor would first determine when and if either fund would be used. His recommendations would be made to the chairmen of both the Senate and House Appropriations committees. Specific appropriations from either fund would require a two thirds vote of approval in both the Senate and House.

\*\*\* **Business Tax Credit for New Jobs Created** -- As part of its fiscal 1986-87 tax cut package, the General Assembly passed and the governor approved legislation (**HB 2596, Act 79/1986**) to provide tax credits to businesses that create new jobs over the next three years.

Specifically, an employer's state tax obligations will be reduced by an amount equal to the increased federal unemployment compensation "excise tax" contribution of the employer for each new job created. The tax credit would amount to \$140 for each new employee in 1986, \$161 for each new employee in 1987, and \$168 for each new employee in 1988.

\*\*\* **Capital Budget and Redevelopment** -- A \$1.6 billion capital budget contained in **HB 383** was approved as a conference committee report by the Senate 49-1, following approval in the House, and then was pared in half by the governor when he subsequently signed it into **Act 118**.\

This capital budget, which is actually an extension of the 1984-85 capital budget, is considered unique in that it authorizes redevelopment assistant projects as well as the more

traditional improvement projects on state-owned property.

The governor's veto of line items reduced the \$1.6 billion capital budget to about \$790 million. Of this total, \$400.7 million will be for so-called redevelopment assistance, and \$388.9 million is for public improvement projects.

The debt created by the sale of bonds is usually retired by unrestricted general fund revenues. However, in this case, the debt created for redevelopment projects is to be retired by a special Redevelopment Assistance Sinking Fund (see story on **HB 1676**).

Among the redevelopment projects is an authorization of \$141 million for Philadelphia's proposed \$450 million convention center. Legislation establishing a joint state-city authority to oversee construction of the center has already been enacted (see story on **SB 655**).

The proposed Philadelphia convention center was placed in the redevelopment assistance category because it is expected to generate new economic activity. The project will also receive local funding.

Other redevelopment projects authorized for funding include \$85 million for the Midfield Terminal at Greater Pittsburgh International Airport; \$20 million for Carnegie-Mellon University's proposed National Center for Advanced Manufacturing and Software Engineering; \$13.8 million for Pittsburgh's Buhl Science Center; \$23.8 million for Philadelphia's St. Christopher's Hospital; \$10 million for development of the Horner Research Laboratory at Bethlehem; \$5 million for a Lancaster County Convention Center; \$11.9 million for the Scranton Civic Arena; and \$4 million for a Scranton sports stadium.

**\*\*\*Philadelphia Convention Center Authority** -- By a vote of 39-9, the Senate adopted a conference committee report on **SB 655**, creating a nine-member authority to oversee construction of the proposed \$450 million Philadelphia Convention Center. After first voting against the legislation, the House finally adopted the report which was signed into **Act 70** by the governor June 27.

The joint state-city authority will have members appointed by the governor, the state legislature, the mayor of Philadelphia and city council. The ninth member -- and authority chairman -- will be selected by the other eight members.

The legislation had stalled in the House when a coalition of city legislators, concerned about what they considered weak affirmative action language, joined with suburban legislators, seeking leverage to reduce the city wage tax on commuters, to oppose the measure. When funding for the convention center was included in a capital budget, the measure establishing the joint authority was finally approved.

The legislation authorizes city council to enact a hotel room rental tax to pay for tourist promotion and the city's share of the project. The hotel tax and the state sales tax combined may not exceed 12 percent.

**\*\*\*Capital Budget 1985-86** -- A \$235 million capital budget for 1985-86 was approved unanimously by the Senate in **HB 1014** and then signed by the governor Jan. 23 into **Act 1**.

The legislation authorizes the sale of \$165 million worth of bonds to finance General Services Department construction projects around the state and \$70 million for Transportation Department projects.

Originally, this capital budget was contained in **SB 655** which also included \$50 million for the proposed Philadelphia Convention Center. The capital budget provisions, minus funds for the convention center, were then inserted into **HB 1014**, a Boat and Fish Funds measure that was gutted. **SB 655** then became legislation to establish a convention center authority, and the convention project was authorized in **HB 383** (see previous stories).

\*\*\***Capital Budget 1986-87** -- The capital budget for 1986-87 was set at \$601.5 million in **SB 1556** which was adopted unanimously by the Senate as a conference committee report and signed by the governor July 10 into **Act 124**.

About \$500 million of the debt authorization is for public improvement and transportation projects to be repaid from General Fund and Motor License Fund proceeds.

The remaining \$100 million bond authorization will finance partially the redevelopment projects authorized in **HB 383** (see previous story). Financing from previous bond sale authorizations will cover remaining project costs, and the entire redevelopment debt is to be retired from the special sinking fund (see **HB 1676**).

Of the \$100 million for redevelopment assistance in **SB 1556**, \$30 million is expected to be used for the Pittsburgh airport's Midfield Terminal, \$10 will go for other Pittsburgh area "Strategy 21" projects, and \$60 million will be used for the Philadelphia Convention Center. The state's share of the convention center project is limited to \$185 million.

\*\*\* **Sinking Fund to Help Finance Projects** -- Without opposition in either chamber, the legislature adopted a conference committee report on legislation (**HB 1676, Act 115/1986**) creating a so-called Redevelopment Assistance Sinking Fund for the purpose of making principal and interest payments on state bonds issued for projects such as the Philadelphia Convention Center, the development of a new midfield terminal at the Greater Pittsburgh International Airport, and Lehigh University's purchase and development of Bethlehem Steel's Homer Research Labs in the Lehigh Valley.

Up to \$30 million in revenues generated by the state's Realty Transfer Tax will be deposited in the sinking fund on an annual basis for payment of the debt service requirement on the redevelopment assistance bonds.

\*\*\***Motor License Fund Budget** -- A \$1.4 billion highway budget for 1986-87 contained in a conference committee report on **SB 1447** was unanimously approved by the Senate and signed by the governor July 2 into **Act 10A**.

The new budget is only about \$26 million more than the 1985- 86 road spending plan. The current level of gas and oil taxes and registration fees, which support the Motor License Fund budget, will remain the same for the new fiscal year.

**SB 1447** allocates \$548,638,000 for highway maintenance, or about \$500,000 more than in 1985-86. Additionally, the new budget sets aside \$10.9 million to assure that counties earmarked for less maintenance aid under the state's distribution formula will actually receive the same amount of aid as the previous fiscal year.

The new highway budget also includes a \$165 million expenditure for debt interest payments, about the same as in 1985-86. An additional \$2.1 million is included for interest payments on bonds sold to advance money for interstate construction that is 90 percent reimbursable from the federal government.

Other major outlays include: \$147 million for payments to municipalities for road maintenance and construction; \$149.7 million for the state police; and \$9.5 million for aviation operations and airport construction and development.

The Motor License Fund also contains a \$20 million appropriation to provide a one-time payment to county maintenance districts for highway maintenance.

\*\*\***PUC Budget** -- The Public Utility Commission budget of \$24.8 million for 1986-87 was approved 49-1 by the Senate in **HB 2090** and signed by the governor July 1 into **Act 6A**.

This compares with a \$24.3 million PUC budget for the previous fiscal year.



The House had originally proposed a \$26.3 million budget for the PUC, but the Senate recommended \$24.5 million. A compromise led to an agreement to a \$24.8 million budget.

The PUC budget is funded by assessments against the state's utilities, not tax revenues.

\*\*\***Consumer Advocate Budget** -- The Office of Consumer Advocate received a budget of nearly \$2.5 million for 1986-87 when **HB 2089**, approved unanimously in the Senate, was signed by the governor June 6 into **Act 3A**.

The consumer advocate's new budget of \$2,476,000 is about \$150,000 more than the previous fiscal year's budget of \$2,322,000. It is supported solely by assessments on the state's utilities, not by general fund tax revenues.

\*\*\***Oil Overcharge Refund** -- Some \$96.8 million awarded to Pennsylvania as its share of a \$2 billion judgment against the petroleum industry for violating federal price regulations in the 1970's will be used to help low-income people weatherize their - - homes and partially offset heating costs under **SB 1277**, which was unanimously approved as a conference committee report by the Senate. On July 10, the governor signed the legislation into **Act 122**.

The legislation creates an Energy Conservation and Assistance Fund into which the oil overcharge refunds will be deposited.

For 1986-87, SB 1277 appropriates \$40 million from this special fund as follows: \$20 million for the weatherization of homes of low income persons; \$10 million for energy assistance payments under the Low Income Heating and Energy Assistance Program (LIHEAP); \$5 million to the Pennsylvania Solid Waste Resource Recovery Development Fund and \$5 million for energy conservation projects at schools, hospitals and other public facilities.

\*\*\***Radon Detection** -- The relatively newly discovered threat of radon, a cancer-causing gas formed by the deterioration of uranium deposits, is addressed in **HB 1934** which was approved unanimously by the Senate and signed by the governor May 16 into **Act 62**.

The legislation appropriates \$1 million to the Department of Environmental Resources to work with industry and the federal government in developing methods to reduce unsafe levels of radon gas found in homes. It also triggers a \$3 million low-interest loan program for homes to install devices to prevent-or alleviate the infiltration of dangerous levels of gas.

This \$1 million appropriation is in addition to some \$1.4 million included in the 1986-87 budget for radon testing.

The \$3 million loan program to combat radon infiltration was established in 1985 in the Pennsylvania Housing and Finance Agency. However, no loans were made because PHFA feared liability suits by homeowners if devices installed failed to curb their radon problems. Immunity to such suits is granted to PHFA under **HB 1934**.

\*\*\***Avian Flu Payments** -- Poultry farmers whose flocks were destroyed earlier this year to eradicate avian flu will be indemnified from a \$1.2 million appropriation approved unanimously by the Senate in **HB 440** and signed by the governor April 22 into **Act 1A**.

The legislation appropriates the money to the Department of Agriculture to pay poultry men for some 307,000 birds killed to stop an avian flu outbreak in four central Pennsylvania counties.

The bill also provides ~se of the appropriation for incentive payments to swine owners who slaughter their breeding swine to help eradicate pseudorabies.

\*\*\***Supplemental Budget for 1985-86** -- A measure (**HB 1880**) to spend an additional \$74 million in state

funds for the 1985-86 fiscal year was signed by the governor May 8 into **Act 2A**. Most of the supplemental money was for welfare programs.

The legislation included spending about an additional \$52 million for the state's medical assistance program and \$13 million more for the state's cash grants program for welfare recipients. The remainder is for tort claims in the highway budget, judicial costs and some health programs such as renal dialysis treatment. Besides the \$74 million state funding supplement, **HB 1880** authorized an additional expenditure of \$103.5 million in federal funds for a number of programs.

\*\*\***State Retirement Board Expenses** -- A total of \$4,882,000 was appropriated from the State Employees Retirement Fund to the State Employees Retirement Board for administrative expenses for 1986-87 under **HB 2551** which passed the Senate unanimously and was signed by the governor July 1 into **Act 7A**.

\*\*\***School Retirement Board Expenses** -- The Senate unanimously approved **HB 2552**, appropriating \$10,362,000 from the Public School Employees Retirement Fund to the Public School Employees Retirement Board for administrative expenses for 1986- 87. The bill was signed by the governor July 1 into **Act 8A**.

\*\*\***Pennhurst Conversion To Veterans' Home** -- Approval by the Senate of legislation (**HB 1013**) to convert the Pennhurst Center in Chester County into a third state-run veterans' home was followed by the governor's enactment of the measure February 14 into **Act 7**.

In signing the bill, the governor reduced the bond authorization for the project from \$6.17 million, approved by the legislature, to \$2.16 million which will cover only part of the conversion cost.

The Pennhurst Center for the Mentally Retarded, the subject of much litigation in recent years over cases of patient abuse, was slated to cease operations by mid-1986. When converted, it will become the first veterans' home in the Philadelphia area.

The state now operates veterans' homes in Erie and Altoona.

The bill also includes its original authorization of \$1,398,000 for capital improvement projects by the Game Commission in Bedford, Cambria, Somerset, Lackawanna, Lehigh and Schuylkill counties.

Boat and Fish Funds capital improvement projects totaling \$550,000, originally contained in and then deleted from **HB 1014**, were also inserted into **HB 1013**.

\***New Non-Preferred Appropriation** -- Not included in the package of non-preferred appropriation bills enacted as part of the 1986-87 general fund budget was **SB 1338** which was approved 40-9 in the Senate and then referred to the House Appropriations Committee before the summer recess.

The bill, which represents a new non-preferred appropriation and had difficulty gaining the necessary two-thirds votes for Senate passage, would appropriate \$80,000 to the Pennsylvania Nutrition Adjustment Center to study nutrition and food sensitivity in developmentally disabled children.

\*\*\***Licensure Budget** -- **House Bill 2554**, approved unanimously by the Senate and signed into **Act 9A** by the governor July 1, appropriates \$8,753,000 from the Professional Licensure Augmentation Account for use by the Department of State's Bureau of Professional and Occupational Affairs for 1986-87. Of this total, \$105,000 is restricted to fill ten new staff positions.

The bill also appropriates \$1,212,000 to the State Board of Medicine; \$238,000 to the State Board of Osteopathic Medicine; and \$107,000 to the State Board of Podiatry.

\*\*\* **Beer Industry Tax Credit** -- The General Assembly adopted a conference committee report on legislation (**SB 370, Act 26/1986**) extending and boosting special state tax credits to the

malt or brewed beverage industry in Pennsylvania for three years.

Since 1974, Pennsylvania brewers have been entitled to a tax credit of up to \$100,000 annually for the purchase of plant, machinery or other equipment.

The conference committee report on **Senate Bill 370** not only extended the tax credit until 1989 but increased it to \$150,000 annually.

\*\*\* **Rail Tax Credit Extended** -- The General Assembly passed and the governor signed into law (**Act 123/1986**) a bill (**SB 1422**) reauthorizing a gross receipts tax credit granted railroad companies for maintenance and improvements to "rights of way" including expenditures for ties, rails, signals, etc.

The credit, which equals 25 percent of the amount spent in Pennsylvania in the previous year, would be extended through the tax year of 1992. Each year's expenditure for which a credit is taken must be at least twice the previous year's credit.

\*\*\* **Interest Payments to Taxpayers** -- The General Assembly approved a measure (**HB 2001, Act 127/1916**) that requires the state to pay interest on tax overpayments that are not refunded to the taxpayer within 75 days after tax returns are due or within 75 days after the return is filed if it is filed after the deadline.

Previously, the state had six months to make tax refund payments before interest was applied.

\*\*\* **Employer DC Tax Reduction** -- The General Assembly enacted a measure (**HB 1042, Act 30/1985**) providing Pennsylvania businesses with a \$189 million reduction in 1986 on the amount of tax they otherwise would have had to pay to cover interest on Pennsylvania's Unemployment Compensation Fund debt to the federal government.

The legislation reduced the special tax from a previously scheduled 1986 levy of 1 percent to 0.3 percent on the first \$8,000 of an employee's salary. As a result, each employer was to save \$56 per employee in 1986.

The legislation also marked an attempt to end a dispute involving the governor's initial refusal to appoint an Unemployment Compensation Advisory Council which was mandated by law in 1983. The legislation expanded the membership of the council from 13 to 19 members to allow the governor to make six additional appointments from the business and labor sectors.

Additionally, the legislation limited eligibility for unemployment compensation to seasonal workers employed by fruit and vegetable food processing operations in Pennsylvania.

Such seasonal workers will be denied unemployment compensation between seasons. However, if a seasonal worker's job does not materialize at the beginning of the following season, the unemployed worker could receive benefits retroactively to the end of the prior season.

\* **Philly Wage Tax Dispute** -- Senators representing the suburban communities surrounding Philadelphia succeeded in forcing Senate action on legislation that would reduce the controversial wage tax imposed by the city on their constituents.

The measure, dubbed by its sponsors as the "Spirit of '86" (SPIRIT is an acronym for Southeastern Pennsylvania Initiative for Reform in Taxation), was amended into an unrelated House passed bill (**HB 361**) on the Senate floor. The original language of the House bill was gutted.

Under the proposal, which passed the Senate (30-18) after stormy debate, the wage tax paid by suburban residents who work in the city would be reduced from the current rate of 4.31 percent to 3.5 percent over the next five years.

The bill also provides for a token three-tenths of one percent wage tax reduction for city residents by 1991. It would drop from the current level of 4.96 percent to 4.66 percent over the next five years.

Estimates on how much revenue Philadelphia would lose as a result of the legislatively mandated reduction in the wage tax varied widely among supporters and opponents of the legislation.

City officials estimated the annual revenue loss at \$108 million by fiscal 1991-92.

The bill, however, would give Philadelphia several new taxing alternatives for replacing lost revenues -- even though the new tax options would directly impact only on Philadelphia.

Specifically, the city would be granted the authority to impose one or more of the following:

- a one percent city surcharge on the state's six-percent sales tax;
- a city sales tax of up to six percent on professional services;
- a city personal income tax on individual earned and unearned income; and
- a city commercial rent tax.

In addition to the legislation's scheduled non-resident wage tax reduction, language in the bill specifies that suburban residents would never pay more than 75 percent of the wage tax paid by city residents. Therefore, if the wage tax imposed on city residents was ever drastically reduced by the city, suburban residents would be guaranteed a further reduction.

**House Bill 361** as gutted and amended in the Senate was committed to the House Appropriations Committee soon after its return to the House for concurrence in Senate amendments.

\*\*\* **Tax Credit For Hiring Welfare Recipients** -- A bill (**HB 567**) continuing a program of tax credits to businesses that hire welfare recipients as well as individuals who receive Aid to Families with Dependent Children (AFDC) was enacted (**Act 102/1985**).

Without the legislation -- extending the program until January 1, 1989 -- the program would have gone out of existence December 31, 1985.

Specifically, the program entitles businesses to a tax credit of \$3,600 for each cash assistance or AFDC recipient they employ over a three year period. The credit amounts to 30 percent, 20 percent and 10 percent of the first \$6,000 in wages paid to such an employee during the first, second and third year respectively.

Prior to Senate passage of **HB 567**, and based primarily on concerns that the program was not effectively utilized or promoted by the Thornburgh administration during its initial years, amendments were approved requiring the Department of Public Welfare to conduct a program of "employer education" to inform employers of the availability of the tax credits and to make periodic reports to the General Assembly on the program's effectiveness and utilization.

Meanwhile, another provision of the legislation created a new, two component system for the imposition of the state's Capital Stock and Franchise Tax on regulated investment companies (RIC's) in Pennsylvania. The one component requires that RIC's pay a \$75 fee per \$1 million of net asset value. The other component taxes an RIC's undistributed taxable gross income at the rate of the state's personal income tax. Proponents of the revision contended the change was necessary to prevent a loss of revenues resulting from RIC conversions from corporation to trust formats in order to avoid paying the state Capital Stock and Franchise Tax. Additionally, they argued that the state's previous tax policy represented a disincentive for corporate RIC's to locate in Pennsylvania.

**House Bill 567** also provided a Realty Transfer Tax exemption to farms transferring from sole ownership to a family farm corporation. The exemption was expected to result in an annual state revenue loss of about \$410,000.

\* **PURTA Reports** -- The Senate passed a bill (**SB 1132**) which would allow counties to file Public Utility Realty Tax Act (PURTA) reports on behalf of municipalities within their jurisdictions and to receive .25 percent of the PURTA disbursement to those municipalities as an expense for preparation of the reports. Counties would be entitled to a minimum reimbursement of \$2,000.

\* **Municipal Pension Law Update** -- Passed by the Senate was a 25-bill package (**SB's 1299-1323**) designed to conform various state laws governing municipal pension plans with a municipal pension reform law approved by the General Assembly in 1984.

The bills were recommended by the Public Employee Retirement Study Commission which identified 85 sections in 25 state laws that needed to be brought into conformity with **Act 205** of 1984.

For the most part, the package of bills standardizes guidelines for pension plan funding and actuarial reporting.

The 1984 law was designed to help restore actuarial soundness to municipal pension plans with unfunded liabilities.

In part, the law authorized state funding of \$35 million annually for 15 years beginning in 1987.

Additionally, the 1984 law established procedures to determine financial distress of municipal pension plans and authorized a recovery program which outlined "self-help" remedies.

\* **Volunteer Firefighter Pensions** -- On a vote of 48-0, the Senate passed a bill (**SB 1047**) which would allow volunteer fire companies to establish pension plans for their members. Each individual company, or relief association, could establish its own retirement benefit plan within certain actuarial guidelines.

Proponents of the measure contend that the financial incentive provided by such a retirement benefit would help to attract and maintain an active level of volunteer firefighters. House action was still pending.

\* **"Police Powers" for Revenue Agents** -- Passing the Senate was a bill (**SB 1194**) that would grant enforcement agents of the state Department of Revenue general police powers to stop and conduct investigations of liquid fuel carriers.

Failure to comply with provisions of the state's Liquid Fuels Tax Act or Fuel Use Tax Act would result in penalties, including the impoundment of vehicles found in violation of the law.

\*\*\* **Escheat Law Update** -- Legislation was enacted (**HB 1196, Act 60/1986**) expanding upon provisions for the disposition of unclaimed or escheated property. The new law permits municipalities to dispose of unclaimed bicycles after a 90 day waiting period. Municipalities were also given the authority to donate unclaimed bicycles to charitable organizations or to sell unclaimed bicycles at public auctions with the proceeds from such sales being retained by the municipality.

Other provisions of the legislation allow the state Secretary of Revenue to donate unclaimed property for use by the commonwealth or any of its political subdivisions.

\*\*\* **Treasurer Reports** -- Passed was a bill (**HB 1672, Act 35/1986**) changing the dates of the state Treasurer's submission of fiscal year quarterly reports to the Auditor General on the status and amount of all Commonwealth funds.

Instead of the reports being due on the last business day of May, August, November and February, the reports are now due on the last business day of June, September, December and March.

\*\*\* **Audits Reduced** -- Enacted was a bill (**HB 1670, Act 31/1986**) eliminating a requirement that the Auditor General audit bonds, stocks, mortgages or other securities deposited with the state Treasurer twice annually. The measure reduced the requirement of such audits to only once a year.

\* **Audit Standards** -- Legislation (**SB 1350**) amending the Administrative Code to require that all fiscal records of the state be audited "in conformity with generally accepted accounting principles" cleared the Senate. House action was still pending.

\*\*\* State Investments -- The General Assembly passed a measure (**HB 1671, Act 45/1986**) which expands upon the so-called "prudent man rule" regarding the investment of state funds. The legislation provides new criteria to assure that state funds are held in safe but maximum return investments.

The legislation also allows the governor to authorize the issuance of replacement checks from the state treasury, allows the state Treasurer to issue replacement bonds or certificates when old ones are lost or destroyed, and permits the state Treasurer to determine the method of making public assistance payments as long as the method of payment is a commercially accepted method.

\*\*\* **Philadelphia Finances**-- Two bills (SB 826; SB 1082) affecting finances in the city of Philadelphia were passed and signed into law (**Act 85/1985; Act 83/1985**).

**Senate Bill 826**, its original language gutted in the House, was amended to allow Philadelphia to refinance bonds in an effort to save the city money on long-term debt.

**Senate Bill 1082**, also stripped of its original intent, was amended in the House to permit the continuance of Philadelphia's excise tax on hotel room rentals in the city until December 7, 1988. Without the extension legislation, authorization for the tax would have expired on December 31, 1985.

\*\*\* **Pittsburgh Transfer Tax Waiver** -- Enacted was a bill (**HB 696, Act 115/1985**) providing for a waiver of the state realty transfer tax on the sale of Three Rivers Stadium in Pittsburgh to private interests.

The waiver was designed to facilitate Pittsburgh Mayor Richard Caliguiri's multi-faceted plan to keep the Pittsburgh Pirates in Pittsburgh. Without the waiver, the state would have received approximately \$1,250,000 from the stadium's sale.

Meanwhile, another provision of the legislation requires that employers issue W-2 forms to employees for income tax purposes no later than January 31 of each year.

\*\*\* **Sales Tax Exemption** -- Legislation (**HB 1100**) was passed (**Act 100/1985**) to exclude from the imposition of the state sales tax any materials used for memorials to commemorate historic events, provided that such materials are purchased by non-profit organizations and that the memorial will be publicly owned.

The legislation was expected to result in a refund of \$5,000 in state sales tax paid on materials used in the construction of a Vietnam War -memorial in Doylestown, Bucks County.

\*\*\* **Retirement System Changes** -- Members of both the state employees' and public school employees' retirement systems who become eligible or are required to withdraw their contributions to either system are now allowed to withdraw their contributions in installments instead of in a "lump sum" payment under legislation (**SB 244**) passed by the General Assembly and signed into **Act 19/1985** by the governor.

Specifically, the legislation gave vested and retiring members as well as non-vested members who are leaving state or public school service the option of receiving their contributions plus interest in installments instead of all at once.

Previously, vested and retiring members who elected to withdraw their contributions were required to withdraw in one lump sum. Non-vested members who leave state or public school employment have no choice but to withdraw their contributions and were also required to do so in one lump sum upon termination of employment with the state or public school system.

Because members' contributions as of 1982 became "sheltered" from federal tax withholding, the intent of **Senate Bill 244** was to prevent retiring state or public school employees from having to face the full federal tax liability on their "tax sheltered" contributions and interest in the year they make the withdrawal.

The new law permits the eligible member to receive his contributions plus interest in four or fewer installments over a four year period instead of a lump sum payment.

\*\*\* **Registration Exemption** -- Approved was a measure (**SB 423, Act 13/1985**) exempting handcraft artists from provisions of a law enacted last session requiring so-called "gypsy" or transient vendors to register annually with the state Department of Revenue and to post a bond to ensure compliance with the state's tax sales law.

In addition to the exemption, the new legislation provided for the licensing of "promoters" of flea markets, antique shows, or other similar shows which offer items for sale. The promoters are required to keep records of show participants for a period of three years - records which will be subject to inspection by the Department of Revenue.

\* **Reciprocal Tax Agreements** -- Passing the Senate (50-0) was a bill (**SB 246**) to permit the state Department of Revenue to enter into reciprocal agreements with other states governing the payment of state income taxes when a citizen doesn't live in the state where he works.

Under the proposal, which was still facing final House action, an individual would pay income tax to the state of his residence.

\* **Farm Income Tax Payments** -- The Senate passed (49-0) a bill (**SB 1058**) that would enable farmers with two-thirds of their gross income derived through farming to file an estimated tax any time on or before January 15 of the succeeding year or file a final return and pay the entire tax by March 1.

Current law as it relates to the filing of an estimated tax on farm income applies only to individuals with a net income, rather than a gross income, which is two-thirds derived through farming.

House action on **SB 1058** was still pending.

\* **Financial Disclosure Statements** -- Legislation (**SB 95'2**) cleared the Senate (49-0) that would require financial disclosure statements filed by public officials and public employees to include an acknowledgement that they understand that under state law any conviction of criminal conduct in connection with public office will result in forfeiture of pension benefits. House action was still pending.

\*\*\* **Cancelled Bonds** -- Enacted was a bill (**HB 694, Act 21/1985**) providing for the destruction of cancelled or unused Commonwealth bonds by the appropriate transfer agents. The measure removed the requirement that officials from the offices of the governor, the state treasurer, and auditor general be present during the destruction of these bonds.

## Judiciary

\*\*\* **Death Penalty Law Expansion** -- For the first time since its reenactment in 1978, Pennsylvania's death penalty statute has been changed by a measure (**HB 1644**) which was signed into law by the governor as **Act 87** of 1986.

Specifically, the new law adds a prior third degree murder conviction and prior voluntary manslaughter conviction to the list of aggravating circumstances that a jury must consider -- along with mitigating circumstances -- when weighing its decision on whether to impose the death penalty for a person convicted of first degree murder.

The expansion of the death penalty statute came in response to a 1985 state Supreme Court ruling (*Commonwealth v. Goins*) which overturned the death sentence for a two-time killer on the grounds that the first murder offense was not an aggravating circumstance.

\*\*\* **Private Prison Moratorium** -- The General Assembly enacted a measure (**HB 307, Act 19/1986**) imposing a moratorium until June 30, 1987 -- on the opening and operation of new private prisons in

Pennsylvania.

In the interim, a bipartisan task force created within the Joint State Government Commission and consisting of three members of the Senate and three members of the House was authorized to study and hold public hearings on the need for and community impact of private prisons. Questions surrounding liability, security and other issues as they relate to private prisons were to be addressed by the task force which was to issue a report on its findings and recommendations to the General Assembly by March 31, 1987.

The ban on the operation of private prisons did not apply to private corrections facilities which began operations in Pennsylvania in 1985. The bill, however, required that such facilities only incarcerate inmates convicted of drunken driving or minor summary offenses. The facilities are also prohibited from accepting federal prisoners or inmates from prisons in other states.

Another provision of the legislation allows county and state owned jails and prisons to hire private security personnel "serving in the capacity of correction officers."

\*\*\* **Videotaping of Child Testimony** -- Becoming law (**Act 14/1986**) was a measure (**SB 176**) providing for the videotaping of court testimony from children who are the victims of sexual or other abuse.

By permitting the videotaping of such testimony, the legislature hoped to prevent the victims of child abuse from being "victimized again" by having to undergo repetitious and sometimes "torturous" appearances before a full courtroom and in the presence of the defendant.

Other provisions would allow the court to take a child's testimony via closed-circuit TV, provide for the use of "anatomically correct dolls" to assist child victims with their testimony in sexual offense cases, permit the courts to appoint "child advocates" in cases of sexual or child abuse, and prohibit public disclosure of the identity of child victims unless ordered by the court.

The legislation also requires district attorneys to notify the appropriate state licensing board when a health care professional has been convicted of a felony.

\*\*\* **Domestic Violence Arrests** -- Enacted was a measure (**HB 350, Ac: 10/1986**) permitting police officers to make "probable cause" arrests or arrests without a warrant of suspected domestic violence offenders.

Previously, such arrests were only permitted in cases involving a felony.

Specifically, the legislation permits "probable cause" arrests when a police officer observes "recent physical injury to the victim or other corroborative evidence" indicating that a crime such as recklessly endangering another, simple assault, aggravated assault, or involuntary manslaughter has occurred.

Such immediate on-the-spot arrests of domestic violence suspects -- without the need for the initial filing of a formal complaint by the victim -- is intended to guard against or prevent the further abuse of an already abused child or spouse.

Additionally, the legislation provides that a domestic violence offender's release on bail following arrest could include the condition that the suspect refrain from returning to "the residence or household of the victim and the victim's place of employment."

The legislation also requires police to seize any weapons that were used in the commission of a domestic violence offense and to provide the victims of domestic violence with detailed oral or written notification of the availability of domestic violence shelters and related services in the community as well as a listing of their rights to obtain court relief under the state's Protection From Abuse statute.

"**V**" **Crime Victims Compensation/Agency Shop** -- What started out as a measure (**SB 180**) dealing solely with crime victims compensation claims by child abuse victims was amended to include "agency shop"



provisions affecting state and school district employees and ended up being vetoed by the governor. The final draft of the bill had cleared the Senate by the slimmest of margins (26-23).

The proposal would have allowed unions representing state or school district employees to negotiate agreements with public employers to require non-union members to pay a "fair share fee" to the union for costs associated with the union's representation of non-members in contract bargaining.

Additionally, the legislation contained numerous provisions expanding the state's Crime Victims Compensation program. Among those provisions, the bill would have:

- allowed a victim of child abuse to file a claim for compensation, regardless of when the crime occurred, up until one year after reaching the age of 18;
- allowed victims of drunk driving to receive compensation;
- clarified that mental injuries are compensable;
- allowed compensation for loss of railroad retirement and support payments as a result of a crime;
- allowed recovery of lost earning power in addition to earnings actually lost because of a crime;
- allowed residents of all states to be compensated for crimes committed in Pennsylvania;
- allowed certain relatives of a deceased victim of crime to be compensated for psychological counseling;
- repealed a \$100 minimum claim requirement; and
- eliminated consideration of victim compensation awards in determining eligibility for other assistance programs.

\* **Tort Reform** -- The Senate passed a bill (**SB 1428**), still awaiting action in the House, that would limit punitive damage awards in civil liability actions.

Under the proposal, punitive damages (damages awarded to a plaintiff for the sole purpose of punishing a defendant) could only be awarded if the plaintiff proves the need for compensatory damages (damages awarded for the purpose of correcting a wrong that was committed.)

The amount of punitive damages would have to bear a "reasonable relationship" to the amount of compensatory damages.

Punitive damages could only be awarded for "outrageous conduct" which is defined as conduct produced by an "evil motive" or "reckless indifference" to the rights of others.

\*\*\* **Little League Coach Liability** -- The General Assembly passed and the governor signed into law a bill (**HB 1625, Act 57/1986**) limiting the liability of Little League baseball coaches and other community athletic and non-profit event volunteers.

The measure grants a degree of civil immunity to volunteer supervisors and officials of youth activities, functions for the handicapped and non-profit events, and is intended to prevent frivolous lawsuits for essentially blameless accidents.

Negligence could only be proved if a volunteer's or association's actions fell below standards generally practiced and accepted by similar volunteers and similar associations" and when the volunteer or association knew their actions "created a substantial risk of actual harm" to an injured party.

The limited negligence standard does not apply, however, to transportation to or from a game, event or practice or when an action is brought involving the care and maintenance of real estate not associated with a practice or playing field.

\* **Judicial Reform** -- On a vote of 47-2, the Senate passed a bill (**SB 1**) proposing several amendments to the state constitution in an attempt to reform the state's judiciary. When House action on **Senate Bill 1** was delayed, the Senate Republican leadership gutted a House-passed bill (**HB 260**) and inserted the provisions of **Senate Bill 1** into it. **House Bill 260**, as amended, then passed the Senate on a vote of 47-1 and was returned to the House for concurrence in Senate amendments.

As yet, no action has been taken on either bill in the House.

One key provision of the judicial reform proposal would eliminate the judiciary's existing exclusion from having to reveal their personal finances. Under the proposed constitutional change, all justices, judges and judicial employees would be required to adhere to financial disclosure requirements "no less" stringent than those that apply to other public officials in Pennsylvania.

The proposed constitutional amendment would also restructure and enhance the disciplinary powers of the existing nine-member Judicial Inquiry and Review Board. Under the proposal, the board would be expanded to 11 members and renamed the Judicial Conduct Board.

The new board would be empowered to order suspension, removal, discipline, censure or retirement of a justice or judge.

Currently, the Judicial Inquiry and Review Board can only recommend action which may be imposed or rejected by the Supreme Court.

The new board would have only three judges and two lawyers rather than the current five judges and two lawyers. The new board would be dominated by six lay persons instead of just two under current law. Also, legislative leaders would make six out of the eleven appointments to the board. Currently, all appointments are made by the governor (four) and the Supreme Court (five).

Additionally, the board's findings and conclusions would become public documents once filed with the Supreme Court.

The Supreme Court would be required to submit detailed budgets to the General Assembly and its financial affairs would be subject to audit as specified by law.

If approved by the House, the measure would still have to be approved again in the next session of the General Assembly before it could be submitted to the voters for final approval in the form of a voter referendum.

\* **Appellate Court Election by Region** -- Narrowly passing the Senate (26-23) was a proposed constitutional amendment (**SB 601**) to permit the election of the state's Supreme, Superior and Commonwealth Court justices and judges from judicial districts or "regions."

Appellate court judges are now elected on a statewide basis.

Under the proposal, the state would "be divided into seven judicial districts for the Supreme Court, 15 judicial districts for the Superior Court, and a number to be fixed by law for Commonwealth Court. Currently, there are nine Commonwealth Court judges.

The boundaries of the judicial districts for each court would be fixed by the General Assembly at a later date, but the proposed constitutional amendment requires that each district be nearly equal in population.

If passed by the House in this session, the regional election-of-appellate-court-judges constitutional amendment would still have to pass both houses of the General Assembly next session before going to the voters for approval in a referendum.

\* **Auditing the Judiciary** -- The Senate passed (49-0) a bill (**SB 1485**) that would require the state Auditor General to make annual audits of the state's judicial system. Currently, audits are performed by an accountant retained by the state's Supreme, Superior, and Commonwealth Courts. House action is pending.

\* **Senate Confirmation of Judicial Appointments** -- On a vote split along party lines, Senate

Republicans passed (26-23) a bill (**SB 620**) that would eliminate minority party participation in the Senate confirmation process for judicial appointments.

The proposed constitutional amendment would allow gubernatorial nominations to fill vacancies on the state's common pleas and appellate courts to win Senate confirmation by a simple majority vote (26) instead of by the existing two-thirds majority vote (34) requirement.

The bill was labeled by Senate Democrats as nothing more than a self-serving "political power grab" by the Republicans a move that would virtually assure court vacancies would be filled based on an appointee's political partisanship rather than on an appointee's qualifications for the position. The Democratic controlled House has not yet acted on the measure.

\* **Grading of Attempted Murder** -- The Senate passed (49-0) a bill (**SB 1093**) changing the grading of attempt, solicitation or conspiracy to commit murder from a second degree felony to a first degree felony. House action is pending.

**"C" Mandatory Minimum Jail Sentence for Rape** -- Lodged in a House-Senate conference committee was a measure (**HB 1498**) containing numerous provisions including one mandating a jail term of at least five years for anyone convicted of rape.

\*\*\* **Child Support/Wage Attachment** -- Legislation (**HB 98**) requiring employers to deduct child support payments from an employee's wages when the employee is 30 days late in making support payments cleared both the Senate and House and was signed into law (**Act 66/1985**).

The 53-page measure, which also codified previous laws relating to child custody and visitation rights, was intended primarily to meet federally mandated provisions covering child and spousal support so that the state could retain eligibility for Aid to Families with Dependent Children (AFDC).

The automatic attachment of an employee's wages to make delinquent child support payments was the key feature of the legislation.

Employers who fail to deduct late child support payments from an employee's pay face penalties ranging from employer payment of an employee's delinquent child support payments to imprisonment.

Related features of the legislation allow the courts to order that the attachment of an employee's wages for child support include a penalty of up to 10 percent of any amount 30 days or more in arrears. Employers were also given the authority to impose an additional two percent penalty to cover their costs in complying with a wage attachment order.

Other provisions extended the previous six-year statute of limitations for paternity actions seeking child support to 18 years and allowed the courts -- without regard to the actual physical custody of a child -- to order either parent to provide health insurance coverage for the child and other parent when such coverage is available as a benefit of employment or at a reasonable additional cost.

The legislation also provided for a series of additional penalties for contempt of court orders requiring court appearances, support payments and visitation. They include fines, probation and imprisonment.

\*\*\* **Missing Children** -- Legislation (**SB 184**) requiring state and local police to investigate immediately all reports of missing children upon receipt of such reports was enacted (**Act 14/1985**).

Under the measure, law enforcement agencies are prohibited from imposing arbitrary waiting periods before launching an investigation or search for a child that is reported missing. The law defines a child as anyone under the age of 18.

All relevant information pertaining to the child and the circumstances of his/her disappearance must be recorded by the law enforcement agency receiving the report. The agency is also required to enter the missing child's name into the missing persons file of the Commonwealth Law Enforcement Assistance Network (CLEAN) upon receipt of sufficient identification information.

\*\*\* **Background Checks** -- The General Assembly passed and the governor signed into law a two-bill package (**HB 1138, Act 33/1985; HB 1139, Act 34/1985**) which expanded upon and delayed the effective date of a law enacted in the previous biennial session (**SB 1505, Act 244/1984**) requiring background checks on applicants for teaching positions, persons interested in becoming foster or adoptive parents, and on others seeking employment in the field of child care.

Under **Act 244** of 1984, the background checks for prospective child care employees were to have been required as of July 1, 1985. The new legislation delayed the effective date until January 1, 1986.

Unlike the 1984 law (which required only that the background checks be performed to make employers aware of a job applicant's past history in an effort to discourage the hiring of child abusers for child care positions), the updated version actually prohibits the hiring of persons who within the past five years have been convicted of crimes related to the following:

-- criminal homicide, aggravated assault, kidnapping, unlawful restraint, rape, statutory rape, involuntary deviate sexual intercourse, indecent assault, indecent exposure, concealing death of child born out of wedlock, the selling of infant children, endangering welfare of children, prostitution, obscene materials, corruption of minors, and sexual abuse of children.

The prohibition against employment of persons convicted of the crimes mentioned above applies to anyone who, if hired, would be in direct contact with children.

And, with the exception of prospective public and private school employees, those seeking employment in day care or other child care positions are barred from such employment whenever a background check reveals a "founded" report of child abuse within the past five years.

The background check on prospective teachers, foster and adoptive parents, and others involved in child care includes reports from the state police or the FBI if the applicant is not a resident of Pennsylvania and (with the exception of school employees) the state Welfare Department.

Information contained in the reports on prospective employees cannot be more than one year old.

The background checks also cover "volunteer" child care workers.

\*\*\* **Child Abuse Complaints** -- Securing overwhelming legislative approval and the governor's pen was a measure (**SB 183, Act 49/1985**) suspending the statute of limitations in civil and criminal statutes to allow child abuse victims to file actions anytime before they reach the age of 18 or within two years after turning 18. Under previous law, such actions were required to be brought within two years of the occurrence of abuse.

The legislation also contained a provision removing a previous requirement that county governments furnish state appellate court judges local chamber facilities. Instead, the law now requires the administrative office of the state courts to provide chamber facilities for appellate judges from funds appropriated annually by the General Assembly.

\* **Bullet Proof Vests** -- Awaiting House action is a Senate passed bill (**SB 947**) that would make "bullet-proof vests" an "instrument of crime" if possessed "under circumstances not manifestly appropriate for lawful uses." Also, an attack on a police officer would be considered an "aggravated assault" if the assault on the officer occurred during the course of his/her lawful duties. Under current law, the police officer must be attempting to make an arrest for an assault to be considered an "aggravated assault."

\*\*\* **Firearm Licenses** -- Legislation (**HB 583**) was enacted (**Act 28/1986**) that will make licenses to carry firearms in Pennsylvania valid for five years instead of the existing one year period and increase the license fee from 50¢ to \$2.50. The new five year license will be issued after January 1, 1987. The legislation also requires that any notice of revocation of such a license shall state the reasons for revocation.

\* **Trust for Charitable Solicitations** -- The Senate passed (48-0) a bill (**SB 622**) that would require the establishment of a trust when a public solicitation for a charitable purpose and named beneficiary results in contributions of more than \$5,000.

Persons who contribute would have the right to petition the county court where the trust is located for an accounting of all contributions made. House action is pending.

\* **Coroner; Eye Bank Immunity** -- The Senate passed (50-0) a bill (**SB 1008**) that would eliminate the need for next of kin consent for the donation of a deceased family member's eyes when the deceased individual had validly executed an eye donor card.

Coroners, deputy coroners, medical examiners and authorized eye banks would be immune from any civil action brought by next of kin when the removal of a donor's eyes was in compliance with a validly executed donor card.

\* **Career-Criminals; Philadelphia Courts** -- The Senate passed (49-0) a bill (**SB 703**) that would provide longer jail sentences for so-called career criminals. Under the measure, career criminals -- defined as "dangerous special offenders" -- could be sentenced to jail terms of up to 25 years.

The category of dangerous special offender would apply to:

- A person who has been convicted twice before for crimes carrying jail terms of more than one year, and the new crime has occurred within five years of the convict's last prison confinement;
- A person who has committed a felony as part of a pattern of criminal conduct which resulted in substantial income and in which he had a special criminal skill;
- A person who led a conspiracy of three or more individuals or used force or bribes to further the conspiracy; and
- A person who sold "hard" drugs such as heroin, cocaine, PCP, or "speed" as part of a pattern of criminal conduct which resulted in substantial income.

Additionally, the legislation would restructure Philadelphia's court system so that all cases involving juvenile offenders will be heard by the Family Division of Philadelphia Common Pleas Court. Currently, summary offenses and violations of city ordinances by juveniles are heard by Philadelphia Municipal Court. According to proponents of the change, Municipal Court lacks the authority to impose and enforce penalties on juvenile offenders while the Family Division of Common Pleas Court has the ability to mete out a wide range of penalties and enforce them.

\* **Juvenile Crime** -- Passed by the Senate (50-0) was a bill (**SB 838**) that would establish a system of fingerprinting, photographing and record keeping of "dangerous juvenile offenders." A "dangerous juvenile offender" is described as a juvenile over the age of 15 who has committed two or more violent offenses. Information on such offenders could be disseminated to law enforcement agencies throughout the state and nation when the crime committed by the juvenile was a felony or involved the use of a firearm.

\* **Out of Court Statements by Child Victims** -- The Senate voted (43-6) to pass a measure (**SB 1505**) that would allow out-of-court statements by child victims of sexual abuse to be admissible in criminal court proceedings under certain circumstances.

Such an exception to the so-called hearsay rule would apply when the out-of-court statement was made by a child under 12 years of age, when the court determines that the evidence is "necessary" and the statement provides sufficient "reliability," and the child testifies at the proceeding "or is unavailable as a witness if there is corroborative evidence of the act."

\*\* **Dependent Children; Firefighter Liability** -- Facing a House vote on concurrence in Senate

amendments is a bill (**HB 1160**) that would require the courts to conduct periodic "disposition review hearings" of cases involving dependent children who have been placed in the legal custody of persons other than the child's natural parents or guardian. The hearings, which would be required to be conducted every six months for the first year-and-a-half and every 12 months thereafter, would be for the purpose of determining whether the temporary placement continues to be in the best interests of the child.

Prior to Senate passage, the bill was amended to grant civil immunity to volunteer firefighters during the normal course of their official duties. Negligence could only be proved if a volunteer firefighter's conduct fell "substantially below" standards generally practiced and accepted by persons performing the same or similar duties.

\* **Desecration of Facilities; Videotape Drunk Drivers** -- The Senate passed a bill (**SB 372**) that would make the "desecration" of a church, synagogue, cemetery, school or other such facility a felony of the third degree regardless of the amount of damage caused.

Currently, damage must exceed \$5,000 for the crime to be considered a felony of the third degree (punishable by a jail term of up to 7 years and/or a fine of up to \$15,000).

Desecration is defined as defacing or otherwise damaging a facility "in a way that the actor knows will outrage the sensibilities of persons likely to observe or discover the action."

Prior to final Senate passage, the bill was amended to include a provision that would permit police to videotape suspected drunken drivers either before or after an arrest.

\* **Statute of Repose on Land Survey Defects** -- Awaiting House action is a Senate-passed bill (**SB 1341**) requiring that civil suits against land surveyors or landscape architects for faulty surveys or workmanship be filed within 21 years from the time the surveyor work was performed.

Currently, such suits can be filed upon the discovery of a faulty surveyor landscape problem regardless of when the survey or work was performed.

\*\*\* **Marriage License Application** -- Enacted was a measure (**HB 2093, Act 73/1986**) requiring a full "given" name on an application for a marriage license instead of the previous requirement of a full "Christian" name.

\*\* **State Government Claims** -- Returned to the House for concurrence in Senate amendments was a bill (**HB 430**) that would allow district justices to handle civil cases involving claims by state government agencies when the amount of fine or penalty the agency has filed suit to collect is less than \$4,000.

\* **Retired Judges to Hear Civil Actions** -- Apparently in an effort to reduce court backlogs and provide for expedited hearings, the Senate passed (48-0) a bill (**SB 148**) that would allow parties in a civil action to petition the county court president judge for the appointment of a retired judge to hear the case. The parties in the action would be required to pay all the costs for the appointment of the retired judge.

\* **Civil Case Arbitration** -- The Senate passed (47-0) a bill (**SB 1427**) that would increase the number of civil cases that are referred to compulsory arbitration instead of being heard by the courts. Under the proposal, compulsory arbitration would be required when the amount in controversy in a civil action is less than \$35,000 (currently \$20,000) in judicial districts embracing first, second, second class A or third class counties and less than \$17,500 (currently \$10,000) in any other judicial district.

\* **Will Registration** -- The Senate passed (49-0) and sent to the House a measure (**SB 1511**) that would eliminate the need for witnesses to wills to be present at the time the will is registered. An affidavit of a witness would be accepted by the Register of Wills in lieu of a personal appearance.

\* **Substitute for Property Distribution** -- The Senate passed a bill (**SB 1190**) amending the Divorce

Code to clarify that a personal representative of a deceased individual may be used as a substitute in proceedings for equitable distribution of property when such proceedings were not concluded between the time of a divorce decree and the individual's death.

\* **Land Conveyance Acknowledgement** -- The Senate voted (49-0) to pass a bill (**SB 1532**) providing that conveyances of land made prior to 1985 may not be declared invalid due to a faulty acknowledgement in the execution of the conveyance. Faulty acknowledgement would include a notary public neglecting to include the expiration date of their office or dating of the notary's signature prior to the actual date of the deed.

\* **Inheritance Tax Rate for Adopted Children** -- The Senate approved (48-1) a bill (**SB 1189**) amending state tax law to clarify that adopted children can inherit from their natural parents at the same inheritance tax rate (6%) as non-adopted children.

\* **Probate Code** -- Passing the Senate was a bill (**SB 1162**) representing an omnibus revision of the state's Probate, Estate and Fiduciaries Code as recommended by the Joint State Government Commission.

Among other things, the legislation would simplify procedures for the administration of decedent's estates and for the filing of accounts with the probate courts.

\* **Child Pornography** -- The Senate passed (48-0) a bill (**SB 177**) intended to make it easier to prosecute cases of dissemination of child pornography, a third degree felony. The measure makes possession of three or more copies of a book, magazine, pamphlet, slide, photograph or film depicting a child engaged in a prohibited sexual act or in the simulation of such an act an intent to disseminate. The bill awaits House action.

\* **Sexual Exploitation of Children** -- Still facing action in the House is a Senate proposal (**SB 178**) that would make the "sexual exploitation" of children a first degree felony in Pennsylvania punishable by a jail sentence of up to 20 years and/or a fine of up to \$25,000. An identical proposal in the previous two-year legislative session passed the Senate but died in the House.

\* **Child Rape** -- The Senate passed a bill (**SB 1129**) that would make all rapes of children 10 years of age or under a first degree felony.

Currently, unless there is proof of forcible rape or that the victim lacked the capacity to consent, some cases of sexual intercourse involving children under the age of 14 are considered statutory rape which is a second degree felony punishable by a maximum jail term of 10 years.

This bill presumes that if a child is 10 years of age or under, the child lacked the capacity to consent -- thereby making the rape of such a child a felony of the first degree which is punishable by a jail term of more than 10 years.

\* **Large-Scale Drug Trafficking** -- In a further attempt to - - crack down on the ringleaders of large-scale illicit drug trafficking operations, the Senate passed (47-0) a bill (**SB 694**) that would provide for a mandatory minimum jail term and possibly life imprisonment for drug pushers convicted of engaging in a "continuing criminal enterprise."

Under the proposal, such offenders would face a mandatory sentence of at least 10 years behind bars but could receive a life sentence. Currently, life sentences are only meted out for murder. Other penalties for conviction of engaging in a "continuing criminal enterprise" to sell illicit drugs would include forfeiture of all proceeds from the crime or crimes and a fine of up to \$100,000.

Additionally, other drug offenders would face mandatory minimum jail terms ranging from one to five years and fines of from \$5,000 to \$50,000 depending on the quantity and kind of illicit drug confiscated.

The measure also stipulates that attempts, solicitations and conspiracies to commit a drug-related offense would be punishable to the same degree as the offense.

Another provision would make the use of any "communication facility" (mail, phone, radio, etc.) for the purpose of facilitating a drug-related felony a separate offense punishable by a jail term of up to four years, a fine of up to \$30,000, or both.

\* **Cable TV Pornography** -- The Senate passed (47-2) a bill (**SB 645**) intended to prohibit the dissemination of "obscene or sexually explicit" material on cable television.

"Knowing distribution" of such material would be a misdemeanor of the second degree punishable by a jail term of up to two years, a fine of up to \$10,000, or both. Court definitions of "obscene" and "sexually explicit" are contained in the measure in an attempt to prevent the proposal from being ruled unconstitutional.

An action for violation of the proposed act could be brought by the state Attorney General or county district attorneys and the bill would grant defendants the right to a jury trial.

\* **Domestic Violence Protection Orders** -- Passing the Senate (49-0) was a bill (**SB 288**) expanding the state's Protection From Abuse statute to allow the issuance of protective orders in situations involving individuals who formerly resided together but who now live apart.

The measure, which still must be acted upon by the House, is primarily aimed at preventing those accused of spouse abuse from returning to their former residence once separated or divorced.

\* **Legal Services** -- Final House action 'was still pending on a bill passed 39-9 by the Senate (**SB 402**) to provide supplementary funding for legal services to the poor without the use of state tax dollars.

The legislation, which would create the Interest on Lawyers Trust Accounts (IOLTA) Act, would establish a funding mechanism whereby certain funds held in trust by attorneys for their clients could be deposited in an interest bearing IOLTA account.

The interest revenue generated by such accounts would then be used to help fund legal assistance to the indigent.

The only monies which could be deposited by lawyers in such IOLTA accounts would be those trust funds held for a relatively short period of time and which, if deposited in segregated accounts, would earn less than \$50 in interest income.

The bill would establish a non-profit corporation and Lawyer Trust Account Board for the administration of the funds that would be distributed to legal service providers.

Amendments to the bill on the Senate floor prior to final Senate passage would prevent the use of IOLTA funds for lobbying or political purposes.

Proponents of the measure, while noting that similar IOLTA laws are already in place in 35 states, suggest that the legislation is crucial in light of federal funding cutbacks for legal services to the poor.

\*\*\* **Blackjacks** -- The General Assembly passed and the governor signed into law a measure (**HB 805, Act 58/1985**) permitting deputy sheriffs and liquor control board agents who have received training to use "blackjacks" in the course of their duties.

A blackjack is a leather covered, heavy metal hand weapon.

Other law enforcement officers were granted authority to use blackjacks in the previous biennial session of the General Assembly.

\*\*\* **Drug Offense Jail Sentence** -- Enacted was a bill (**SB 803, Act 39/1985**) stipulating a mandatory jail sentence of at least two years for persons convicted of illegally manufacturing different types of amphetamine compounds.



Such a minimum jail sentence would have to be served without probation, parole or work release.

The legislation also added buprenorphine to the schedule of controlled drugs which can be prescribed for medical purposes.

\*\*\* **District Justices** -- A bill (**SB 282**) granting district justices a pay boost and the authority to substitute community service programs for trials for persons charged with non-violent offenses won final enactment (**Act 60/1985**).

The legislation also provided salary increases for judges of Philadelphia's municipal and traffic courts.

Depending on a district justice's previous pay and the population of his magisterial district, a district justice's annual salary was to be increased to a maximum of \$33,000. The previous maximum was \$29,500.

The president judge of the Philadelphia Municipal Court received a \$4,000 salary increase (from \$60,500 to \$64,500 annually) while other judges of the Philadelphia Municipal Court received an identical increase (from \$59,000 to \$63,000 annually).

The president judge of the Philadelphia Traffic Court received a pay boost of \$4,000 (from \$31,000 to \$35,000 annually) while other judges of that court received a \$4,500 increase (from \$30,000 to \$34,500 annually).

The other key feature of the legislation gave district justices the authority to place persons charged with summary offenses and misdemeanors of the third degree in community service programs instead of ordering them to stand trial.

The programs, an alternative to further disposition of the charges against an individual, could include various forms of public service work as well as training and education. The programs would be subject to approval by the county common pleas court and district attorney. Charges against an individual would be dismissed upon successful completion of the alternative community service program.

\*\*\* **Law Library Funding** -- Enacted was a bill (**HB 666, Act 44/1985**) to increase funding for the Philadelphia Law Library by doubling the percentage of filing fees which are allocated to the library. Under the legislation, the percentage of filing fees collected by the Philadelphia prothonotary for use by the Philadelphia Law Library was increased from 10 to 20 percent.

Additionally, the General Assembly passed a two-bill package (**HB 502, Act 3/1986; HB 503, Act 4/1986**) that would allow second class A counties (Montgomery and Delaware) to impose and collect court fees for the purpose of funding public law libraries.

\* **Wiretap Authority** -- Legislation (**SB 707**) to expand the scope of Pennsylvania's crime-fighting wiretap and electronic surveillance statute cleared the Senate (49-0).

The bill would add several new crimes to the list of dozens of offenses in which law enforcement authorities, with court approval, are currently empowered to make wiretaps or intercept confidential communications in the course of their investigations.

Under the proposal, wiretaps and electronic surveillance could be authorized for investigations relating to corrupt organizations, lotteries, intimidation or retaliation against victims or witnesses of crime, the sale of unstamped cigarettes, and counterfeiting.

The measure would also require the state Attorney General to make annual reports on the utilization of the wiretap statute to the House and Senate Judiciary Committees.

\* **Blood Test Costs** -- The Senate passed (48-0) a bill (**SB 933**) that would allow courts to impose costs for blood or breathalyzer tests on persons who have either been convicted of

drunken driving, homicide by vehicle, or who have been accepted in an ARD (Accelerated Rehabilitative Disposition) program.

Revenues generated would be distributed to the state police or to the municipality of the arresting local law enforcement officers.

\* **Indemnification for Defense Costs** -- A bill (**SB 332**) passed the Senate (47-0) which would require the commonwealth to pay for the legal defense of health care providers when they are sued for following mandated reporting requirements. Such indemnification would be appropriated from the Medical, Osteopathic and Podiatry Fees Account.

\* **Racketeering Crackdown** -- The Senate passed a bill (**SB 708**) that would require the forfeiture of assets acquired through racketeering and would permit those injured by such activities to sue for triple damages.

The bill requires that all moneys forfeited under the act be placed in a special fund for the benefit of victims of racketeering. If a victim fails to recover full or partial damages as a result of a civil court action, he could still recover actual losses from the special fund which would be administered by the state attorney general.

\*\*\* **Part-Time/Full-Time DAs** -- Enacted was a bill (**SB 704, Act 77/1985**) permitting counties with part-time district attorneys to elevate the DA's position to full-time if the change is approved by the county's electorate in a voter referendum.

Prior law prohibited the employment of full-time district attorneys in sixth, seventh and eighth class counties.

\*\* **Bad Checks** -- Facing a Senate vote on concurrence in House amendments is a bill (**SB 408**) providing for civil damages in cases involving the passing of bad checks and a new exception to the state's doctrine of "sovereign immunity".

Under the proposal, a civil action could be brought by the "payee" against the issuer of a bad check following criminal prosecution of the issuer. Damages awarded could be triple the amount of the bad check, but could never exceed the value of the check by more than \$500.

As amended by the House, the state's doctrine of sovereign immunity would not apply to the state's acceptance for regulation and distribution of certain "toxoids and vaccines" manufactured in, and available only from, an agency of another state.

\*\*\* **Crime Commission Continued** -- The Pennsylvania Crime Commission was continued in existence for an additional 10 years under legislation (**SB 1342**) signed into law (**Act 40/1986**) by the governor.

In addition to continuing the commission, **Act 40** permits properly trained commission employees to possess or use firearms during the course of their duties and under guidelines established by the commission.

\*\*\* **Sentencing Commission Continued** -- A measure (**SB 1343**) continuing the existence of the Pennsylvania Sentencing Commission for an additional 10 years was enacted (**Act 41/1986**).

The commission, first established several years ago in an effort to provide "uniformity" in sentencing on a statewide basis through the development of sentencing guidelines for the courts, had been faced with an April 30, 1986 "sunset" deadline.

Under **Act 41**, the commission continues to consist of 11 members but has been reestablished "as an agency of the General Assembly."

The commission, which is required to meet at least four times a year, was given the added responsibility of establishing a program to "systematically monitor" court compliance with the commission's guidelines and mandatory sentencing laws of the state.

Additionally, the commission is now required to develop a plan to evaluate the overall effectiveness of criminal sentences imposed in deterring crime and repeat offenses.

\* **Crime Victims Compensation Board Extension** -- Still awaiting House action is a Senate-passed bill (**SB 1373**) that would reestablish the Pennsylvania Crime Victims Compensation Board which will otherwise expire on December 31, 1986. The bill would authorize the continuance of the board until December 31, 1991.

\*\*\* **Commission on Crime and Delinquency** -- Legislation (**HB 2200**) was enacted (**Act 38/1986**) reestablishing the Pennsylvania Commission on Crime and Delinquency. In addition to recreating the commission, the legislation further defined that private citizen members of the commission cannot be elected or appointed officials of any other entity of government at the federal, state or local level.

\* **Non-Legal Representation** -- On a vote of 47-2, the Senate passed a bill (**SB 661**) that would permit municipalities, municipal authorities or corporations to be represented at proceedings before district justices by officers or employees who are not attorneys.

\* **Traffic Citations** -- Passing the Senate (48-0) was a bill (**SB 664**) which would require that traffic citations issued to motor vehicle code violators be exactly the same and contain the same information as the original filed with the district justice.

## Consumer Protection

\*\*\* **PUC Reform** -- Approved by the General Assembly and signed into law was a measure (**HB 1639, Act 114/1986**) reauthorizing the state Public Utility Commission and making numerous changes in utility law.

The conference committee report on the PUC "sunset review" legislation cleared the Senate on a vote of 31-16 after passing the House on a vote of 173-26.

One of the most controversial elements of the new law hailed as pro-consumer by advocates -- will make it more difficult for electric utilities to charge ratepayers for so-called excess power generating capacity.

Before a utility can charge its ratepayers for electricity generated by a new plant, it will have to prove that the new generating capacity is needed by its customers and will produce "annual economic benefits which will exceed the total annual cost of the plant" within a "reasonable" period of time.

While opponents of the provision maintained that it would stifle any future power plant development and thereby hinder the state's economic development efforts, proponents said it would simply prevent utility customers from being charged for power plants that are unnecessary.

Other provisions of the PUC "sunset" reform as contained in **Act 114** will:

- reduce the terms of PUC commissioners from 10 to 5 years in an effort to make the PUC more accountable for its actions;
- boost the salary of PUC commissioners by \$15,000 a year from \$40,000 to \$55,000 and from \$42,500 to \$57,500 for the PUC chairman;
- reduce the number of Senate votes required for confirmation of gubernatorial appointments to the PUC from 34 to 26 effective in January, 1987;
- prohibit utilities from charging ratepayers for unnecessary advertising expenses, "country club" dues and utility executive "entertainment" costs;
- grant the PUC statutory authority to deny a utility company's rate increase request based on poor or

inadequate service to consumers;

- allow the PUC to base decisions on utility rates on a utility's "efficiency" of operation and to provide for the appointment of management efficiency investigators;
- provide for PUC audits of utility fuel purchases;
- require the PUC to develop an "expense reduction program" for electric and gas utilities;
- require that most pay telephones accept incoming calls;
- prohibit former PUC commissioners from representing a utility before the commission for three years after departing the PUC;
- split the PUC legal staff so that PUC attorneys do not find themselves engaged in a conflict of interest in serving both the public and the PUC; and
- subject the PUC to another "sunset" review in five years and every 10 years after that.

\*\*\* **Coal CWIP** -- A measure (**HB 258**) permitting electric utilities to charge customers for so-called "construction work in progress" or CWIP when the construction is to upgrade or add to existing power plants that "use coal mined in Pennsylvania" was enacted (**Act 80/1986**).

Under the legislation, utilities are permitted to charge customers for the costs of upgrading or making additions to power plants that use Pennsylvania coal before the improvements have actually been completed and before the customer is actually receiving service from the refurbished or improved unit.

Under prior law, utilities were barred almost entirely from charging ratepayers for any power plant construction until the new or refurbished plant was operating or became "used and useful."

**House Bill 258** provided for a limited exception to the anti-CWIP statute.

The legislation also places a ceiling on the CWIP costs that can be charged to ratepayers before a refurbished plant becomes operational. The ceiling would amount to no more than half of what the original plant cost to build.

Meanwhile, the measure also gives the Public Utility Commission the authority to reverse utility decisions to retire power plants when the continued use of the plants with refurbishing would be "cost effective" and would promote the "continued or increased use of coal mined in Pennsylvania."

\*\*\* **Utility Construction Cancellation** -- Legislation (**SB 543**) was enacted (**Act 62/1985**) granting the Public Utility Commission the authority to halt or modify electric utility power plant construction when the PUC determines that such construction "is not in the public interest."

Only "prudently incurred costs" could be recovered by utilities on partially completed facilities cancelled by the PUC.

The legislation also requires the PUC to consider the full transcript of public hearings as part of the record in utility rate increase proceedings and gives the PUC jurisdiction over safety issues involving the condition of track, equipment and operations of the Southeastern Pennsylvania Transit Authority (SEPTA) systems rail commuter lines.

The latter provision was prompted by SEPTA's reported refusal to permit PUC inspections of its rail commuter lines.

\*\*\* **Foreign Coal Prohibited; Special Metering** -- A bill (**SB 615**) prohibiting utilities that supply power or heat to state-owned buildings from using coal mined in a foreign country for the purpose of generating electricity or providing heat cleared both houses of the General Assembly and was signed into law (**Act 103/1985**).

The legislation was also designed to reduce the electric bills of volunteer fire companies and nonprofit senior citizen centers by allowing them to be metered for electric service in the same manner as residential customers.

\*\*\* **Liability Coverage Reduction for Amusement Operators** -- Enacted was a bill (**HB 2023, Act 56/1986**) reducing the amount of liability insurance coverage required of operators of amusement rides or attractions in Pennsylvania.

The legislation was in response to the escalating cost of liability insurance protection. The minimum amount of liability insurance protection required of amusement ride operators was reduced from a level of \$300,000 per occurrence and \$1,000,000 in the aggregate to a range of \$100,000 to \$250,000 per occurrence and \$300,000 to \$500,000 in the aggregate depending on the classification of the amusement ride or attraction.

\* **Jewelry Appraisal** -- Passed (50-0) by the Senate was a bill (**SB 734**) that would prohibit jewelers from basing jewelry appraisal fees on the value of the item being appraised. The bill requires that jewelers charge a "flat rate" for appraisals of items made out of precious metals, diamonds or precious or semiprecious stones. Violators would be guilty of a summary offense and face a fine of \$100 on a first offense and \$200 for subsequent offenses.

\* **Grocery Store "Item Pricing"** -- Awaiting House action was a bill (**SB 735**) that would require grocery stores which use electronic or mechanical scanners at the check-out line to also label each grocery item with a price. The bill cleared the Senate on a vote of 31-15. Excluded from the "item pricing" requirement would be foods consumed on the premises, small sized items costing less than 30¢, tobacco products costing \$1.00 or less, and vending machine items.

\* **Shopping Cart Theft** -- Passed by the Senate was a bill (**SB 1346**) designed to crack down on the theft or unauthorized possession of retail shopping carts, laundry carts, dairy cases, egg baskets, bakery trays and other commercial containers.

Persons who have left the premises of a commercial establishment and who are in possession of a shopping cart, laundry cart or other such container bearing the mark or name of the commercial owner would be presumed guilty of possession of stolen property.

Under the bill, unlawful possession and attempts to conceal or destroy ownership markings on the containers would be a summary offense punishable by a fine of up to \$300 or a jail term of up to 90 days.

Persons who possess such items could avoid prosecution under the proposed law if they returned the cart or container to the rightful owner within 60 days after the effective date of the act.

\* **Gasoline Additives** -- Legislation (**SB 1470**) which would require all service station dealers to post gasoline additive information on the pumps cleared the Senate.

The bill defines the terms gasoline additive, co-solvent, ethanol, and methanol. Any additives mixed with gas would have to be posted and the bill outlines specific size and visibility requirements for the signs.

Manufacturers would be required to provide the additive information to sellers of gasoline.

Penalties include fines of up to \$100 for the first offense and up to \$200 for subsequent offenses.

\*\*\* **Acupuncture Regulation** -- Legislation (**SB 693**) was enacted (**Act 2/1986**) providing for the regulation of the practice of acupuncture in Pennsylvania. The legislation requires acupuncturists to register biennially with the State Board of Medicine and to practice under the general supervision of a medical doctor. The state medical board was charged with establishing registration fees and promulgating regulations for the training of acupuncturists.

Violations of the act are a misdemeanor of the third degree.

\* **Acupuncture Practice by Osteopaths** -- Pending in the House was a bill (**SB 1484**) passed by the Senate (50-0) that would allow acupuncturists to work under the supervision of an osteopathic physician and be registered with the state Board of Osteopathic Medicine. The bill would change the requirement of **Act 2** of 1986 that acupuncturists can only work under the supervision of a medical doctor.

\*\*\* **"Sunset" Review/Boards Reformed and Reauthorized** -- As a host of state government boards and commissions faced "sunset" review deadlines, the General Assembly grappled with a series of bills that would continue but "reform" the agencies and the laws that govern their operations.

The "sunset" concept, enacted in Pennsylvania several years ago, envisions a state bureaucracy that must periodically justify its continued worth or -- as the term implies -- "sunset" and go out of existence.

Following "sunset" reviews the General Assembly passed and the governor signed into law bills that restructured and reauthorized the state Board of Psychologist Examiners as the State Board of Psychology (**SB 1134, Act 33/1986**), the state Board of Veterinary Medical Examiners as the Pennsylvania State Board of Veterinary Medicine (**HB 1646, Act 54/1986**), the State Board of Optometric Examiners as the State Board of Optometry (**HB 1680, Act 58/1986**), the State Board of Medical Education and Licensure which was renamed the State Board of Medicine (**SB 1158, Act 112/1985**), the State Board of Pharmacy (**SB 1135, Act 111/1985**), the State Board of Physical Therapy (**HB 1363, Act 117/1985**), the State Dental Council and Examining Board (**HB 1678, Act 118/1985**), the Pennsylvania Drug, Device and Cosmetic Board (**SB 1102, Act 105/1985**), the State Board of Examiners of Nursing Home Administrators (**SB 1103, Act 106/1985**), the State Board of Podiatry (**SB 1114, Act 107/1985**), the State Board of Osteopathic Medicine (**SB 1115, Act 108/1985**), and the State Board of Nursing to regulate the practice of nursing (**SB 1116, Act 109/1985**) and practical nursing (**SB 1117, Act 110/1985**).

**Act 112** of 1985 -- dealing with the licensure of physicians -- repealed and rewrote the state's entire Medical Practice Act, created a disciplinary committee to advise the board on all disciplinary matters and refined a law enacted earlier in 1985 (REFER TO: Medical License Suspension) which barred the medical licensure of anyone previously convicted of a drug-related felony.

The latter "refinement" allows the medical licensure of a qualified individual with a prior drug conviction if at least 10 years has elapsed since the conviction and the individual can prove to the medical board that he or she has been totally rehabilitated.

The same "refinement" was inserted into bills that continued the boards that license other health care professionals.

Meanwhile, the laws enacted to reauthorize and restructure the various boards and commissions as a result of "sunset" review contain many of the same provisions which, among other things, would:

- increase board per diem expenses from \$30 to \$60;
- prevent board members from serving more than six months past the expiration of their terms and no more than two consecutive terms;
- provide for the removal of board members who have missed three consecutive meetings and require the actual presence of board members for the purpose of establishing a quorum or vote on any issue;
- provide the boards with subpoena power;
- require annual reports to the appropriate professional licensure committees of the General Assembly;
- allow the boards to levy civil fines for violations of licensure laws;
- provide injunctive relief for unauthorized practice;
- require that revoked licenses not be reinstated for a period of five years unless directed otherwise by a court order; and
- require continuing education for those licensed.

\*\*\* **IRRC Resurrected** -- The Independent Regulatory Review Commission (IRRC), which had ceased to exist December 31, 1985 under its own "sunset" clause, was brought back to life February 21, 1986 when the Senate and House finally approved and the governor signed legislation (**HB 784, Act 16/1986**) to continue the agency -- at least until the end of 1986.

The commission, which is responsible for approving or disapproving regulations promulgated by the executive branch of state government, faces a new "sunset" deadline of December 31, 1986 and will go out of existence again without further legislative action this fall.

The commission initially failed to win reauthorization when Senate Democrats complained that the commission on several occasions had ignored the will or sentiment of the General Assembly on bureaucratic regulations.

**House Bill 784** was enacted only after Senate Democrats had succeeded in amending the extension legislation requiring the IRRC -- in its approval or disapproval of regulations -- to give greater consideration to "legislative intent" of statutes and to what additional advice the General Assembly and its committees might offer.

Under the amendment, the first determination of the commission as to whether a proposed regulation is in the public interest would be whether the proposed regulation is contrary to the statutory authority of the agency making the regulation and the "intention of the General Assembly in the enactment of the statute upon which the proposed regulation is based."

The commission is also required under the new law to determine whether proposed regulations represent "policy decisions" which require further legislative review and to consider approval or disapproval of a proposed regulation by standing committees of the Senate or House.

Whether or not the commission has lived up to its new mandate will undoubtedly figure in the debate on whether the commission is allowed to continue in existence beyond this year.

\*\*\* **Medical License Suspension** -- The General Assembly passed and the governor signed into law a six-bill package requiring the automatic suspension of a doctor's or other health care professional's license when the individual has been convicted of a drug-related felony.

The legislation, which mandated a license suspension without any determination by the state's licensing boards, was in direct response to situations where health professionals -- because of delays in investigations by the licensing boards -- continued to hold valid licenses to practice even though they had been convicted of a drug-related felony in a court of law.

The legislative package covered physicians (**SB 338, Act 7/1985**), dentists (**SB 339, Act 8/1985**), osteopaths (**SB 340, Act 9/1985**), registered nurses (**SB 341, Act 10/1985**), practical nurses (**SB 342, Act 11/1985**) and pharmacists (**SB 343, Act 12/1985**).

In addition to providing for the automatic suspension of such professional licenses when there has been a conviction or "plea of guilt or nolo contendere" on drug-related felony charges, the legislation disqualified anyone with a prior drug-related felony conviction from seeking application for such a license in the first place. However, this provision of the law was later amended (REFER TO: "Sunset" Review/Boards Reformed and Reauthorized) to allow the licensure of qualified individuals if at least 10 years have elapsed since a drug-related felony conviction and the applicant can prove he's been rehabilitated.

Meanwhile, the General Assembly also passed and the governor signed a measure (**SB 83, Act 6/1985**) granting new authority to the state Board of Medicine for the immediate suspension of licenses of unscrupulous physicians.

Specifically, the legislation allows the Board to temporarily suspend a physician's license -- without a hearing -- when it is determined that the physician is "acting in such a manner as to present an immediate and clear danger to the public health and safety."

The temporary suspension could remain in effect for up to 180 days pending a final determination by the Board. However, a preliminary hearing would be required to be held within 30 days of the issuance of a temporary

suspension and the suspension continued only if the hearing finds that a "prima facie" case has been established. If a prima facie case is not established, the suspended license would be immediately restored.

\*\*\* **Publicize License Suspension; Revocation** -- The General Assembly passed a bill (**SB 1208, Act 18/1986**) requiring the state Bureau of Professional and Occupational Affairs to place notices in newspapers when a physician's or other professional's right to practice has been suspended or revoked. The bill was amended in the House to exclude the publication of such notices when the revocation or suspension of such a license has been stayed by the professional's agreement to participate in an approved treatment program for impaired professionals.

\*\*\* **Medical Malpractice** -- Legislation (**SB 81, Act 48/1985**) was enacted requiring health care facilities to report incidents of physician misconduct or malpractice to the state medical and osteopathic regulatory boards.

The new law requires that such reports be made in cases of dismissal or curtailment of employment where there exists reasonable cause to believe malpractice or misconduct has occurred, or when the health care facility is in receipt of information establishing that a physician has been convicted of a felony.

Any such facilities making a report in "good faith" would be immune from civil liability.

\* **Nursing Homes** -- Still awaiting House action is a Senate passed measure (**SB 1419**) which stipulates that it is the responsibility of the state Board of Nursing Home Administrators to develop professional standards for administrators.

\* **Recorded Telephone Message Regulation** -- Passing the Senate (49-0) was a bill (**SB 1151**) providing for PUC regulation of telephone companies that offer recorded message calls.

Telephone corporations would be required to develop procedures for accepting, investigating and responding to consumer complaints regarding "976" message services.

Advertisements concerning the availability of recorded telephone messages would have to state the additional charge that the caller will be billed and the nature of the recording.

\*\*\* **Mobile Phones** -- Mobile cellular telephone communications service was excluded from PUC regulation until the end of 1986 as a result of a bill (**HB 1635**) passed by the General Assembly and signed into law (**Act 101/1985**). In the previous biennial session, the legislature excluded mobile telephones from regulation by the PUC until December 31, 1985. **House Bill 1635/Act 101** of 1985 extended that exclusion until December 31, 1986.

\*\*\* **Buy "American"** -- In an attempt to eliminate compliance problems with a law requiring that motor vehicles purchased or leased by the state or its political subdivisions be manufactured or assembled in the United States, the Senate and House passed a measure (**SB 638**) signed by the governor (**Act 18/1985**) broadening the scope of the act to allow the purchase of vehicles manufactured or assembled in Canada.

Contract documents for the procurement of motor vehicles by any public agency in Pennsylvania must stipulate that vehicles be manufactured in North America. In addition to the withholding of payments, contract violators would be prohibited from participation in contracts with the state or other public agencies for a period of five years.

\*\* **Philadelphia State Hospital Restriction** -- What started out in the Senate as a mostly technical bill (**SB 776**) involving a state board's administration of tests for license applicants was gutted in the House and amended to prohibit convicted criminals from being housed at the Philadelphia State Hospital. Following House action, the Senate initially voted (25-22) to non concur in the House amendments but later reconsidered the vote and tabled the bill. Final legislative action, therefore, is still pending.



## Education

\*\*\* **Education Subsidies** -- A conference committee report on **House Bill 209**, which included an educational subsidy package worth more than \$2.2 billion in aid to the state's 501 school districts, was approved 50-0 by the Senate and 198-1 by the House. It was signed July 10 by the governor, making it **Act 117-1986**.

The Equalized Subsidy for Basic Education (ESBE) is distributed according to a complex formula based primarily on enrollment and economic conditions in each district. The 1986-87 subsidy is calculated with a guaranteed minimum increase of two percent and a maximum increase of seven percent over the 1985-86 subsidy. There is also a guarantee that no district will receive less than 85 percent of its fully funded entitlement.

A new school supplement for 1986-87 only will distribute \$4.6 million to districts which experienced an average decrease in personal income or an increase of less than 1.5 percent from 1981 to 1984. The payment will be made to districts based on one percent of actual instructional expenditures.

An additional \$34 million one-time supplement will be distributed statewide based on the amount of funding each school district receives and the number of students enrolled.

Small District Assistance (SDA), which began in 1985-86, has been continued as \$50 per student grants for districts with enrollments of 1,500 or less. No district will receive less SDA than it did in 1985-86. This portion of **House Bill 209** is expected to cost about \$5.7 million.

**House Bill 209** includes a one-time payment to the Pittsburgh School District of \$1,325,000 to cushion a precipitous reduction in aid ratio.

Under other provisions, the intermediate unit (IU) operating subsidy is increased by \$2.9 million over the previous year, with a revision in the formula to help smaller IU's.

The legislation permits intermediate units to own office and warehouse buildings, but no classrooms. Previously, IU's were only permitted to lease land and buildings.

Four-year colleges and community and junior colleges will receive one time grants equal to about \$58 per equivalent full time undergraduate students for the acquisition and upgrading of instructional equipment. This grant is expected to reach about \$20 million.

There is also a provision that allows state subsidies for both secondary and adult vocational education to be paid directly to either the area vocational-technical school or the school district operating the program. Currently, only school districts receive such payments.

This issue emerged at recent hearings held by a Senate Education Committee subcommittee.

A reduction in the minimum school year of 180 days to 176 days is included for those districts affected by the 1985 flood emergencies. This reduction applies only to the 1985-86 school year.

Original provisions of **House Bill 209**, which require every district to provide drug and alcohol abuse instruction in every health course given in grades one through twelve, remain intact.

Another provision, amended by the Senate Education Committee, permits school districts to retain state funds received for site improvements though no construction has taken place, if the land is being used for other public purposes.

Previously, school districts were required to return the site money if there was no building construction

within ten years.

Other provisions in **House Bill 209** regulate sabbatical leaves, allow the use of mail ballots by joint schools, and broaden the definition of those eligible for professorship appointments by the State System of Higher Education.

\*\*\* **Early Retirement** -- **Senate Bill 774**, a conference committee report approved 50-0 by the Senate and 199-0 by the House, extends 'the "early retirement window" for state and public school employees for one year to June 30, 1987.

State employees who are 53 or older with 30 years of service could receive full pensions if they choose to retire between July 1, 1985 and June 30, 1987. Also, during this period, state employees between 50 and 53 years of age with 30 years of service could retire early, but with their pensions reduced by .25 percent for each month retirement precedes their 53rd birthday.

The legislation contains no age restrictions on teachers who participate in these programs.

The governor signed **Senate Bill 774** July 8, making it **Act 91-1986**.

\*\*\* **Foreign Gifts to Colleges** -- **House Bill 971** requires institutions of higher education to report all gifts of \$100,000 or more by foreign individuals, governments or legal entities.

The legislation was approved 47-0 by the Senate with Senate amendments concurred in 200-0 by the House.

The bill's sponsors are concerned that gifts by foreign governments or nationals could include strings which could influence an institution's academic programs, research, and hiring. Such gifts must be reported to the Secretary of Education. It also permits the institutions to request information regarding the donor's nationality.

A concern raised by the Pennsylvania Association of Colleges and Universities that legitimate alumni donations could be curtailed, led to an amendment that exempted the reporting of foreign gifts only if an individual is an alumnus of the school.

Penalties for non-compliance by the donor and donee are spelled out in the legislation.

The governor signed **House Bill 971** as **Act 99-1985** on December 19.

\*\*\* **Increase in PHEAA Grant** -- Under **Senate Bill 724**, signed into law February 21 as **Act 15-1986**, the Pennsylvania Higher Education Assistance Agency (PHEAA) can raise the maximum annual grant award to students from \$1,500 to \$2,000.

The last increase was in 1977, although tuitions have reportedly increased an average of ten percent annually since then. The award is still based on student need and the tuition charged by the institution.

A Senate Democratic Caucus attempt to amend **Senate Bill 724** to provide PHEAA aid for part-time students failed on a 24-24 vote.

The Senate approved the bill 48-0. It was approved by the House of Representatives 192-1.

\* **Teacher Certification Requirements** -- **Senate Bill 812**, approved by the Senate 48-0, provides that permanently certified teachers holding a master's degree will not be subject to any continuing education requirement imposed by the state Board of Education.

Teacher certification requirements, including a provision that permanently certified teachers complete six

credit hours of instruction every five years, were adopted by the board last year. The legislature argued that only the General Assembly had the authority to change certification conditions and approved legislation overriding the regulations. However, the governor vetoed that bill.

Proponents of **Senate Bill 812** say this compromise will encourage teachers to attain formal education above that required for certification, and that study for master's degrees would be related to the employee's duties more than to just a continuing education requirement.

**Senate Bill 812** has been in the House Education Committee since June 25, 1985.

\* **Honors Curriculum** -- By a 49 - 0 vote, the Senate moved to establish a statewide high school honors curriculum, an honors test and an honors scholarship.

**Senate Bill 242** would establish an annual \$1 million scholarship award program for public and non-public senior high school students, scheduled to begin in 1987-88.

Under this legislation, the 500 top scoring students statewide would receive a \$1,000 one-time scholarship. Additionally, the top student in each of the state's 501 school districts would receive a \$1,000 scholarship. No student could receive more than one such scholarship, although **Senate Bill 242** provides that other state grants would not be reduced due to receiving a grant under this program.

Under an amendment offered on the Senate floor, the Pennsylvania Higher Education Assistance Agency is responsible for devising a method to award scholarships in the event of a tie score on the honors test.

Approved by the House Education Committee, the bill has been in the House Appropriations Committee since May 8, 1985.

\* **Use of Former School Buildings** -- **Senate Bill 286** would permit school districts to donate school buildings to volunteer fire companies, rescue squads and ambulance corps.

Current law only permits the districts to convey such property free of charge to municipalities, while volunteer organizations are required to pay fair market value.

Approved 47-0, the bill has been sent to the House, where it was approved by the Education Committee and referred to the Appropriations Committee.

\* **Public School Authority** -- **Senate Bill 243**, approved 47-0, would permit school districts to enter into lease agreements, mortgages, security agreements, contracts or other financial arrangements through the Public School Building Authority.

A companion bill, **Senate Bill 287** (47-0), permits the Public School Authority to provide additional financial services to districts. Although the Authority can now finance the acquisition, construction and reconstruction of school buildings and educational broadcasting facilities, this bill would allow the acquisition of equipment and construction of other facilities.

Together the bills allow the Authority to provide a full range of financial management services for schools and public television systems.

Both have been referred to the House Education Committee where they have remained since June 3, 1985.

\*\*\* **Low-Level Radioactive Waste Compact** -- The General Assembly has authorized Pennsylvania to form a regional compact and host a regional low-level radioactive waste facility.

A Conference Committee report on **Senate Bill 417**, approved 45-1 by the Senate and 195-4 by the House, provides for the creation of the Appalachian States Low-Level Radioactive Waste Compact. The only states permitted to participate in the compact are Pennsylvania, Delaware, Maryland and West Virginia.

The bill became **Act 120-1985** when the governor signed it December 22.

Under federal law, states must develop their own waste sites or join with other states to create regional facilities.

In addition to the compact, the legislation sets up a commission to oversee the administration of .the compact.

**Senate Bill 417** defines low-level radioactive waste as that from contaminated rags, papers, filters and clothing from hospitals, industry and university research, as well as some components from nuclear power plants.

A decision on a waste facility site will be determined in future legislation. Because Pennsylvania generates so much low level waste, it is guaranteed to be host and operator of the site.

As the host state, Pennsylvania would be responsible for ensuring reasonable charges and fees, prohibiting shallow land burial of waste and developing alternate means of disposal. Pennsylvania would also be required to maintain a manifest system available to the Commission.

The commission itself will be made up of two members from each party state and five members from each host state. After the siting legislation is approved, another voting member of the commission, who is a resident of the county or municipality where the facility is located, is to be appointed.

No more than one-half of the commission members and alternates from any party state are to have been or may be employed by a low-level waste generator or related industry. No commission member is to have a financial interest in any industry which generates low-level radioactive waste, any low-level radioactive waste regional facility or any related industry for the duration of the member's term in office. The other restriction prohibits commission members from accepting such employment for at least three years after leaving office.

The commission has the authority to enter into temporary agreements with non-party states or other regional boards for the emergency disposal of low-level waste generated outside the compact region.

Funding for the first year will come from an assessment of up to \$200,000 from each host state and up to \$100,000 from each party state. In succeeding years, funding will be based on the percentage of waste generated.

The compact is effective only after it has been enacted by the Pennsylvania General Assembly and one other party state. It must also be ratified by Congress.

\*\*\* **Flood/Disaster Relief** -- **House Bill 66** provides \$7.1 million to help homeowners, whose houses or property were damaged last year by floods or tornadoes, with grants supplementing private insurance and federal grants. (See related story under Local Government.) Originally the legislation contained \$15 million, but it was line vetoed by the governor (**Act 25-1986**, signed March 28).

Low and middle income homeowners would be eligible for grants up to \$12,500. The program is to be administered by the state Department of Public Welfare.

This legislation is the result of efforts by several Democratic senators, who responded last November to the plight of constituents in Southwestern and Northeastern Pennsylvania, whose homes and personal property were lost as the result of flooding in the wake of Tropical Storm Juan and Hurricane Gloria.

They had requested that \$20 million be appropriated as quickly as possible to get the grant money to the flood victims, but the effort was defeated by one vote, following Republican opposition. That one vote was credited to a newly elected Republican senator from the affected area. As a result, **House Bill 66** was referred to the Appropriations Committee for consideration.

An Appropriations Committee amendment expanded the legislation to include victims of all presidential declared disasters of 1985. It also reduced the total amount available for grants.

The counties of Allegheny, Fayette, Greene, Somerset, Washington and Westmoreland were declared disaster areas after flooding November 4 and 5.

The counties of Lackawanna, Luzerne, Wayne, Susquehanna, Wyoming and Carbon suffered flood damage September 27.

Also covered by the legislation are victims of tornadoes which hit Beaver, Butler, Crawford, Erie, Forest, McKean, Mercer, Venango, Warren, Lycoming, Northumberland, Union and Clearfield counties last May.

Originally, **HB 66** would have required the installation of coal-powered heating systems or units in all state-related universities. This provision was removed.

\*\*\* **Dam Failure Notification** -- **House Bill 214**, approved 49-0 by the Senate, requires owners of high hazard dams to post public notices in any area which may be affected by the failure of the dam. A high hazard dam, classified by the Department of Environmental Resources, is any dam located as to endanger populated areas downstream by its failure.

The House concurred 201-0 on a Senate amendment, which applied the posting regulation to all such dams, not just those that are privately owned.

Signed by the governor May 16, **HB 214** became **Act 15-1985**.

\*\*\* **Excise Taxes Imposed** -- **House Bill 801**, approved 48-0 by the Senate and 197-3 by the House, allows Allegheny, Montgomery and Delaware counties to develop, transmit, utilize or distribute electric power to facilities owned by the county or a municipal authority by means of a hydroelectric generating facility.

Senate floor amendments included provisions for hotel room taxes. Allegheny county commissioners could impose a three percent excise tax and Delaware and Montgomery county commissioners could impose a tax not to exceed three percent. The money is to be collected by hotel operators from each patron and paid to the county treasurers.

In Allegheny County, the money is to be placed in a special fund for the purpose of a convention center or exhibition hall.

Distribution of the fund is also outlined in the bill: one third of Allegheny County's collected tax is to go to a tourist promotion agency; one-third to the municipality where it is collected, if requested by the municipality; and, one-third to be used for the operation and maintenance costs of the convention center or hall.

In Delaware and Montgomery counties the funds are to be used only for travel and tourism promotion and advertising.

**House Bill 801** became **Act 5-1986** on February 14.

\*\*\* **Chesapeake Bay Commission** -- Legislation which includes an agreement among Pennsylvania, Virginia and Maryland to create the Chesapeake Bay Commission was approved by the Senate 49-0 on June 11.

The commission will oversee efforts to protect the environment of the Chesapeake Bay. **Under House Bill 117**, signed as **Act 25-1985** on June 25, the commission will exist for ten years, with provisions for ten-year extensions.

Commission expenses, according to the bill, will be apportioned equally among the member states, with \$75,000 being the initial contribution per member for 1985-86.

\*\*\* **DER Licensing** -- Originally intended to change the way DER maintains lease agreements in state forests, late-hour Senate amendments to **House Bill 499** expanded that responsibility to include bonding agreements for oil and gas operations.

Another, more extensive amendment gives DER the responsibilities to promote the rules and regulations regarding recreational use of designated whitewater areas.

Under **HB 499**, DER would license each whitewater rafting outfitter who has been in operation for a period of five years or more and has provided those services within state parks under formal agreement with DER. In addition, DER can accept bids, issue licenses and charge fees and royalties for additional whitewater rafting outfitters if it determines there is enough capacity on the waterway to handle the added traffic.

Approved 47-0 by the Senate, with the House concurring 198-5 on Senate amendments, **HB 499** was signed by the governor, becoming **Act 57-1985**.

\*\*\* **Energy Development Authority/Connellsville State Hospital** -- **House Bill 336** allows legislative members of the Energy Development Authority to designate alternates to sit and vote in the members' places. An amended version of the bill was approved on a 47-0 vote by the Senate, adding provisions for the divestiture of the Connellsville State Hospital.

The House concurred in the Senate amendment, and **HB 336** was signed into law as **Act 55-1985** July 11.

\*\*\* **Slag Storage/Removal** -- **House Bill 1002 (Act 59-1985)** excludes the extraction of minerals from DER's list of construction related stockpiles. DER currently considers this activity surface mining. A Senate floor amendment permits the storage of slag, as long as the pile of slag, waste materials obtained from mining, does not contain other solid waste.

Approved 47-0 by the Senate, amendments were accepted by the House, 202-1, and signed by the governor July 11.

\*\*\* **State Park Rights-of-Way** -- By a 48-1 vote, the Senate passed a bill (**SB 290**) providing for water and sewage rights-of-ways in and through state parks. Under the measure, municipal water authorities and political subdivisions could lay water and sewage lines within state parks, following a determination by the state Department of Environmental Resources that the move is in the best interest of the state and does not adversely affect the land.

Permits for water withdrawal may only be issued for emergency conditions and it must be used for drinking purposes.

**Senate Bill 290** was approved by the House, and signed by the governor December 22, making it **Act 96-1985**.

\*\*\* **Energy Conservation Standards** -- **House Bill 568** sets up a restricted receipts account to receive fees to be used for the enforcement of the state's Building Energy Conservation Act. The bill also increases fees

to builders from \$5 to \$10. The act, administered by the departments of Labor & Industry and Community Affairs, mandates that structures comply with certain energy conservation standards.

The House concurred 200-0 with Senate amendments. The bill became **Act 98-1985** when the governor signed it December 19.

**\*\*\* Conservation Building Standards -- House Bill 2002 (Act 55-1986)** is considered a "clean-up" measure. It adds "building additions" to the list of types of buildings that are subject to minimum energy conservation standards under the Building Energy Conservation Act. When the Act was amended in 1985, "building additions" was inadvertently omitted.

\* **Hydroelectric Generating Franchises** -- The Senate voted 34-15 to authorize the Department of Environmental Resources to franchise hydroelectric generation activity.

According to Senate Bill 280, the franchise could be held by any person or group, other than a state agency, to install and operate hydroelectric facilities at any existing state-owned dam. DER is responsible for the establishment of fees, royalties and lease payments.

Franchises would be awarded on a bid basis or competitive proposal process. If the person or agency already has a license under the Federal Power Act, they can be granted franchise rights without bidding. A franchise can only be awarded for fifty years.

**Senate Bill 280** also provides that a Hydroelectric Resource Account be established in which all fees, charges, royalties and lease payments shall be deposited. The account would be used solely for the administration of the act and the state facilities.

The Pennsylvania Rural Electric Association has voiced some concern. It believes that since the original resource belongs to the people of the commonwealth, the people should benefit. Although the REA does not oppose the legislation, it maintains that if an existing for-profit electric utility wins the franchise, that agency should take the tax shelter and sell the derived electricity to consumers at cost.

**Senate Bill 280** has been in the House Conservation Committee since April 24, 1985.

\* **Hydroelectric Generating Facilities** -- Exemptions from the Public utility Realty Tax (PURTA) were approved by the Senate 49-0 for hydroelectric generation facilities during the construction phase of such facilities (**SB 1397**).

Current law allows for an exemption for the tax "in the first year" the facility or land is used in furnishing hydroelectric power. **Senate Bill 1397** would allow for the exemption to begin at the initial stage of construction and to remain in effect for ten years after the year in which the land or facility is first used to furnish hydroelectric power and energy.

A Senate floor amendment made the legislation effective upon enactment, with the provisions retroactive to January 1, 1986.

Reported out by the House Mines & Energy Management Committee, the bill has been re-referred to the House Appropriations Committee.

\* **Use of Coal In State Heating Systems** -- **Senate Bill 1457**, approved 49-0 by the Senate, would require all state heating systems to use Pennsylvania coal.

The legislation would allow some exemptions if the Department of General Services determines the change to coal would cause an environmental problem, or if the use of coal would not be cost effective. In addition, cogeneration systems would be exempt from the requirement if the systems are in or beyond the design stage prior to the effective date of this legislation (60 days after enactment).

**Senate Bill 1457** has been referred to the House Mines & Energy Management Committee for consideration.

\* **Prohibitions on Hydrocarbons** -- On a 48-0 vote, the Senate approved legislation (**SB 255**) to ban certain chemicals as sewage systems cleaners and to require the disclosure of cleaner contents.

**Senate Bill 255** prohibits the sale, distribution or use of any sewage system cleaner or additive containing halogenated hydrocarbon chemicals or aromatic hydrocarbon chemicals in certain amounts.

These chemicals are used in cleaners primarily meant to remove grease from septic systems. The most commonly used among them is commercially known as TCE, a suspected carcinogen. Both types of chemicals (there are dozens of each) have been known to cause significant water pollution and ground water contamination.

The ban does not affect the cleaners made from a yeast compound.

Another provision requires the Department of Environmental Resources to institute a control program under which it would conduct research projects and investigations, and regulate the sale and consumption of restricted chemicals.

The measure would also give the Environmental Quality Board the option of adopting regulations to require chemical manufacturers to submit a list of compound components to DER.

**Senate Bill 255** includes a civil penalty of \$2,500 and two criminal penalties for violations. Enforcement is expected to cost between \$50,000 and \$1 million, contingent on staff size.

The bill has been referred to the House Conservation Committee.

\* **Pesticide Use Registration** -- **Senate Bill 1445** would require that all pesticides distributed in Pennsylvania be registered with the Secretary of Agriculture. There would be an annual registration fee of \$25.

Approved 50-0 in the Senate, **SB 1445** would also restrict the purchase or use of restricted-use pesticides by certified or permitted applicators. There is a \$50 fee and a basic core examination necessary to become certified.

Any government agency, or other person applying or contracting for the application of pesticides must hold a license stating those categories in which they intend to do business, if this bill is enacted. The Department of Agriculture would conduct the licensing. This fee is \$25.

Private applicators would need to pass a written test in order to receive certification to purchase or use restricted-use pesticides. This fee is \$10.

Other provisions repeal the existing Pesticide Advisory Board and create a new one, composed of three licensed pesticide applicators, one entomologist, one environmental health specialist from the state Department of Health, one toxicologist, one plant pathologist, one member from the agricultural chemical industry, one member from the food processing industry, two producers of agricultural crops or products on which pesticides would be used, one member representing environmental interests, one member from the state Department of Agriculture, the Pennsylvania Fish Commission, the Department of Environmental Resources, and PennDOT.

A Senate floor amendment would permit the temporary suspension of a license or certificate if the Secretary of Agriculture determines there is an immediate and clear danger to the public health. It also provides for hearings, suspensions and other actions related to the suspension. Civil penalties of up to \$10,000 can be assessed for each offense.



**Senate Bill 1445** has been referred to the House Agricultural & Rural Affairs Committee.

\* **Drilling Notification** -- Approved 50-0 by the Senate, **House Bill 1375** would require operators of gas or oil wells to notify a landowner if a well is drilled on land not owned by the operator. The landowner would have 15 days to file an objection to the well permit application.

Well permit applications must be accompanied by a bond payable to the state under the condition that all drilling, water supply replacement, restoration, and plugging requirements are performed appropriately.

An amendment to the 1984 Oil and Gas Act, **House Bill 1375** would limit the liability covered by the bond paid with well permit applications and relaxes requirements necessary to obtain bonds in order to make those bonds more easily available to those who want a permit.

A Senate floor expands requirements necessary for permit acquisition.

The bill will be returned to the House for consideration of Senate amendments.

### Local Government

\*\*\* **Flood Relief** -- **Senate Bill 642** would allow those who meet certain income requirements to apply for assistance for flood or tornado damages. It provides for the expenditure of up to \$15 million for those purposes. It should be noted, however, that the General Fund budget approved July 1 contains only \$8 million for this expenditure.

The governor's office claims that because it approved another \$7.1 million earlier this year (**Senate Bill 66** -- see related story under Environmental Resources & Energy Committee report), his departments really only need to spend another \$7.9 million in order to meet the letter of the law.

Under **Senate Bill 642**, the state Department of Public Welfare would administer the program to provide emergency funds to residents stricken by 1984, 1985 or 1986 floods or tornadoes, if they were the subject of federal emergency declarations. Losses considered would be those not covered or due from private insurance and federal or state grants, or those considered insurance policy deductibles paid by grant applicants. The amount given would be 75 percent of the first \$5,000 in damages not covered by insurance, 50 percent of the second \$5,000, and ten percent of the remaining loss, up to \$12,500. No grant would exceed \$12,500.

If insufficient funds remain to reimburse such municipalities in full, reimbursement would be made on a pro rata basis.

Local taxing authorities could, by ordinance or resolution, exempt from real property taxation the assessed valuation of reconstruction or repairs made to damaged properties for up to three years after repairs are made, with a decreasing exemption percentage each year after the work is completed.

**Senate Bill 642** was signed July 1, 1986 as **Act 77**.

\*\*\* **Community Service Block Grants** -- **House Bill 1875 (Act 116-1986, signed July 10)** sets up the procedure for the distribution of \$28 million in 1986-87 federal community service block grant funds in Pennsylvania. Currently, this activity is handled through the Department of Community Affairs which distributes funds through local and regional community action agencies for such programs as food, nutrition and shelter programs, housing rehabilitation, day care, job training and placement. Prior to 1981 these funds went directly from the federal government to the community action agencies.

Under **House Bill 1875**, 90 percent of the funds would be disbursed to the agencies, with five percent, to

the Department of Community Affairs for administration of the program, and another five percent to the Secretary of Community Affairs for discretionary program use.

Community action agencies are prohibited from participating in political activities, including voter registration and transportation to voting polls, under the bill, and they must take statewide priorities into account when considering their local plans. Of the 90 percent funding to the agencies, no more than five percent can be used to establish new community action agencies in those areas currently un-served.

It should be noted that this language was also originally in **Senate Bill 642**, which was gutted to become the latest "vehicle" for flood and disaster relief (see above).

\*\*\* **Municipal Traveling Per Diem Expenses** -- Approved by the Senate 49-0, and the House 197-0, the General Assembly has provided an increase in the per diem allowance for municipal officials who attend state conventions of municipal associations to which they belong. **Senate Bills 398, 399 and 400** (now **Acts 5, 16, and 17**, respectively) increase the per diem from \$75 to \$90 for boroughs and first and second class townships.

\*\*\* **Nursing Home Sales** -- **Senate Bill 237**, approved by the Senate (49-0), the House (197-1) and concurred and signed by the governor, July 3 as **Act 37-1985**, allows counties to sell their nursing homes, including the contents and surrounding property.

Under previous law, the county was required to sell the building and land separately from the contents of the home.

Originally intended to allow Mercer County officials to sell the county nursing home, House amendments applied the bill to counties generally. Those amendments also removed a one-year sunset provision on the ability to sell the home.

\*\*\* **County Pension Fund Withdrawals** -- Legislation has been enacted to allow county retirees, following county action to participate, to make a lump sum withdrawal of their individual contributions into their pension system. Under **Senate Bill 123**, approved 48-0 by the Senate and 201-0 by the House, the retiree still would receive an annuity from what the county paid into the system on the retiree's behalf.

Actuarial studies done indicate this legislation would not put a significant financial drain on county pension plans. The program is optional for each county.

**Senate Bill 123** was signed July 3 as **Act 35-1985**.

\*\*\* **Municipal Pensions** -- **Senate Bill 1260**, approved 47-0 in the Senate and 196-0 by the House, will help a number of Pennsylvania municipalities which are finding it difficult to comply with the Municipal Pension Plan Funding Standard and Recovery Act. It limits the applicability of a mandatory shortened amortization period to pension systems that are presently categorized as minimally distressed.

The legislation offers these communities the same fiscal remedies now available to municipal pension plans in moderately distressed communities.

**Senate Bill 1260** was signed as **Act 9-1986** on February 14.

\*\*\* **Supplemental Pension Benefits** -- In 1985, the legislature approved a measure to allow county retirees to make a lump sum withdrawal of their individual contributions to their pension systems. The retirees would receive annuities from what the county paid into the system on the retirees' behalf. **House Bill 1621** clarifies in the law that a cost-of-living adjustment is possible on the county portion of the retirement fund.

Approved 50-0 by the Senate, the measure was enacted as **Act 126-1986** on July 18.

\*\*\* **Millage Increase** -- An increase in the maximum property tax mills levied was approved by the General Assembly, and signed into law as **Act 38-1985** on July 3. Under **Senate Bill 588**, third through eighth class counties would be able to increase the maximum mills levied from 20 to 25.

\*\*\* **Property Sales to Volunteer Squads** -- A package of **House bills, 33, 34 and 126**, will permit boroughs and first and second class townships to sell property without competitive bidding to a volunteer service company, such as a fire department, rescue squad or ambulance corps. Each bill was amended and approved 48-0 by the Senate, concurred in by the House and signed into law as **Acts 22, 23 and 24**, respectively.

\*\*\* **Meals On Wheels** - Allegheny County -- **House Bill 690** affects second class counties (Allegheny County only). The measure exempts from the competitive bidding requirements contracts between the county and the Meals on Wheels program.

Approved by the House last May, the bill was signed as **Act 114-1985** December 20 by the governor.

\*\*\* **Municipal Retirements** -- Under current law, administrative expenses of the Pennsylvania Municipal Retirement System board are paid from the receipts from assessments made against each municipality.

**House Bill 1335**, approved 48-0, amends the language to extend to the 1986 and 1987 fiscal years the current practice for dealing with shortfalls. Each municipality is now charged not more than \$20 per member per year for the administrative expenses. If the amount received does not cover the expenses, the balance can be paid from interest earnings on the fund in excess of the interest credited to the municipal, member's and retired members' reserve accounts. There are maximum limits included in the bill.

Already approved 201-0 by the House, the governor signed the bill as **Act 94-1985** on December 18.

\*\*\* **Property Acquisition** -- **Senate Bill 376**, approved 50-0 by the Senate will allow Bloomsburg to purchase or acquire property deemed to be in the best interests of the town. The legislation includes the same provisions now law for boroughs, townships and counties. Incorporated towns, of which Bloomsburg is the only one in Pennsylvania, were inadvertently omitted.

**Senate Bill 376** was approved 197-0 by the House October 16 and signed by the governor October 31, making it **Act 70-1985**.

\*\*\* **County Assessments** -- By a 48-0 vote, the Senate approved **HB 807** which would increase the amount of dues that the State Association of County Commissioners may charge its member counties (third through eighth class). Similar to a Senate bill approved in October, it increases the amounts that can be charged by the association from \$75 for eighth class counties to \$300 for third class counties. It is the first dues increase since 1975.

The House had approved **House Bill 807** 196-0 May 13, 1985 and the governor signed the bill December 18, making it **Act 93-1985**.

\*\*\* **Recorder of Deeds Regulations** -- **House Bills 1401 and 1402** relieve recorders of deeds of the requirement of making notations for assignments where the deed is recorded on microfilm. Instead, the notations would be supplied in a marked index. A floor amendment to **HB 1401** allows a fee to be charged.

**House Bill 1401** was signed into law March 21, becoming **Act 20-1986**. **HB 1402** became **Act-13** on February 21, 1986.

\*\*\* **Salary Increase for County Officials** -- The Senate voted 49-0 to increase salary limits for officials in second through eighth class counties.

Under state law, if county officers hold two or more of the offices which receive a salary, the office holder is to receive the highest salary fixed for anyone of the offices he holds, plus an additional amount of \$1,000

annually. **House Bill 597** increases the amount to \$2,000 annually.

A Senate floor amendment specifically provides a \$3,000 increase in second through eighth class county sheriff salaries.

In those counties in which a sheriff also acts as a warden, the county commissioners may, under this legislation, also compensate the sheriff-warden an additional \$2,000 annually.

The House concurred 190-1 on Senate amendments November 26.

The governor signed it December 13, making it **Act 87-1985**.

\*\*\* **Insurance Coverage** - Township Commissioners Legislation permitting compensation for first class township commissioners to be more comprehensive and to include more than remuneration for service in the elected position of township commissioner was approved 46-0. **House Bill 1296** is the House version of legislation (**Senate Bill 602**) approved by the Senate last month.

Specifically, the legislation provides that commissioners can receive health and life insurance and pension benefits. This was attempted through legislation in 1977, but the state Ethics Commission had ruled that such benefits would be an illegal financial gain and threatened civil and criminal penalties.

An amnesty clause is included in **House Bill 1296**, granting amnesty to existing unlawful contracts for insurance entered into between January, 1959 and December, 1984. If an individual made payments to an unlawful plan, he would have the choice of having his contributions refunded with interest minus any payments made to him under the plan. He could also buyout the township's interest in the plan. This option must be exercised within 60 days of the time the measure becomes law.

The governor signed **House Bill 1296**, making it **Act 82-1985**, on November 29.

\*\*\* **Allegheny County Tax Redemption periods** -- **House Bill 1636** would allow county commissioners to enact measures extending the real estate tax redemption period for certain employment and medically-disadvantaged real estate taxpayers for up to twelve months. In effect, the legislation would give homeowners every reasonable opportunity to save their homes from sheriff sales.

It was approved 45-0 in the Senate. The House concurred in Senate amendments 201-0.

In 1983 the legislature approved similar legislation which provided relief to people unemployed during that tax year or the preceding year. Local governments had the authority to extend the redemption period on delinquent taxes for up to 12 months, 'saving the property from threat of a tax sale. This was only permitted in counties where the jobless rate exceeded eight percent the preceding fiscal year. The 1983 law expired January 1, 1985.

**House Bill 1636** does not contain the eight percent provision, but still gives county commissioners the option of extending the redemption period for up to 12 additional-months.

The extension can only apply to one owner-occupied property per taxpayer. County commissioners also have the authority to establish payment schedules suited to the specific needs of individual taxpayers.

The legislation is retroactive to December 31, 1984 and is scheduled to expire January 1, 1988.

**House Bill 1636** was signed as **Act 76-1985** on November 6.

\*\*\* **Salary Increases for Local Officials** -- On votes of 45-0, the Senate approved a package of bills designed to increase the salaries paid to borough and first and second class township officials, effective January, 1986. It would be the first increase since 1973.

**House Bills 1647, 1648 and 1649** provide that compensation for borough council members and township supervisors would be based on municipal population and range from \$1,500 for populations of up to 4,999 to \$4,000 annually for populations of 35,000 or more.

Proponents of the legislation said passage prior to the November 5 elections allowed the salary increases to take effect January 1, 1986.

In addition to providing for borough council members, **HB 1647** provides for salary increases for mayors. Also based on borough population, the increased amounts range from \$2,000 annually for populations of less than 5,000 to \$6,000 annually for a population of up to 14,999. In any borough with more than 15,000 residents, the mayor could receive up to \$400 a year for each additional 1,000 (or portion of 1,000) residents. The most recent census figures are to be used in determining population.

Senate amendments were accepted by the House 202-0 and the three bills were signed by the governor October 29 as **Acts 67, 68 and 69**, respectively.

\*\*\* **Civil Service Exam Status** -- **House Bill 2275**, approved 49-0 by the Senate, extends the active status of civil service exam results from two to three years. The bill affects only Allegheny County. In addition, the right of civil service employees to appeal for a hearing within 90 days of action by the Civil Service Commission is clarified. The appeal can be made in the event an employee is reduced in rank, suspended, furloughed or discharged. **HB 2275** was signed as **Act 120** on July 10, 1986.

**House Bill 2276**, approved 49-0 by the Senate, provides for civil service appointment procedures for Allegheny County deputy sheriffs. In the event of rank reduction, suspension, furlough or discharge, the employee has 90 days in which to appeal for a hearing. **HB 2276** was also signed by the governor as **Act 83** on July 3, 1986.

\*\*\* **Borough Civil Service Retesting** -- **House Bill 1774**, approved 49-0 by the Senate, affects boroughs only, permitting former police officers and firefighters to be reinstated without retaking the written civil service exam. They would still be required to take a physical exam.

Currently, a borough's civil service commission recommends from among three candidates based on a written exam administered by the commission. The borough council must hire one of the three top-scoring candidates, unless specific objections are raised about the candidates. Only police or firefighters who had previously taken the written exam would be exempt from this test.

**House Bill 1774** was enacted May 2 as **Act 46-1986**.

\* **Borough Civil Service Reinstatement** -- Affecting only boroughs, **Senate Bill 1408** would require that if borough council hires police officers or firefighters, it must choose from among the top six candidates based on written exams administered by the civil service commission.

Approved 50-0 in the Senate, the measure has been referred to the House Local Government Committee.

\*\*\* **Paid Positions In Second Class Townships** -- The General Assembly voted to give second class township supervisors the authority to participate in votes to appoint themselves to paid township positions such as township secretary, treasurer, or secretary-treasurer. **House Bill 2247** is a response to a state Ethics Commission ruling which said a supervisor could not participate in such a vote. **House Bill 2247** was signed July 3 as **Act 82-1986**.

\*\*\* **Tax Exemption for Volunteer Company Property** -- **House Bills 441 and 563**, signed as **Acts 22 and 23** respectively on March 27, 1986, extend property tax exemptions to properties owned by nonprofit fire companies and rescue squads, including the social halls and grounds, used on a regular basis for activities contributing to the organizations' financial support.

\*\*\* **Raises for Allegheny County Officials** -- The Senate approved legislation that paved the way for Allegheny County commissioners to give raises to certain county officeholders.

By concurring 42-1 in House amendments to **SB 654**, the Senate granted Allegheny County commissioners the power to fix their salaries and those of the controller, treasurer, coroner, recorder of deeds, prothonotary, clerk of courts, register of wills, sheriff and jury commissioner. However the commissioners are prohibited from reducing salaries below current levels.

The bill was signed by the governor October 31, 1985, making it **Act 71** before the Nov. 5 general election, which enabled newly elected officers to receive raises if they were granted by the commissioners before the election.

The legislation does not specify any new salary levels, leaving that to the discretion of the commissioners. However, earlier forms of this bill indicated salaries for the coroner and sheriff would be raised from \$30,000 to \$55,000, and for the jury commissioner from \$25,700 to \$45,000.

\*\*\* **Tax Payment Extensions** -- **House Bill 943**, approved 42-1 in the Senate, allows county commissioners to offer indefinitely a 12-month extension for satisfying outstanding tax claims if "extenuating circumstances" prevent the taxpayer from paying within the time allocated by law.

This is an update of the state's 1947 real estate tax sale law, following recommendations by a 1983 Local Government Commission task force.

The bill also provides a method for returning unmarketable properties acquired by counties to the tax rolls; outlines how property is to be sold; and, creates a repository for unsold properties.

In addition, the allowed interest rate on outstanding delinquent taxes was raised from six to nine percent.

It was signed as **Act 81**-1986 on July 3.

\*\*\* **Tax Millage Increase for Allegheny County** -- **House Bill 808**, approved 46-2 by the Senate, increases the amount of dues the State Association of County Commissioners may charge its member second class and second class A counties. They could not total more than \$2,000.

A Senate floor amendment increased the property tax rate limit for Allegheny County by five mills.

Senate amendments to **House Bill 808** were agreed to by the House, 150-46. It was signed into law February 14, 1986 as **Act 6**.

\*\*\* **Tax Redemption in Allegheny County** -- **House Bill 799**, approved by the Senate 48-0 and signed by the governor July 10, 1986 (**Act 113**), reduces the redemption period from one year to three months in which a property owner can redeem his property which was sold under a tax or municipal claim. It only affects Allegheny County.

\* **Compensation for Local Officials** -- The Senate attempted to deal with a state Ethics Commission ruling that prohibits elected borough and township officials from receiving compensation in the form of municipality-paid health and life insurance and death and pension benefits.

**Senate Bills 602, 772 and 931** permit the compensation to be more comprehensive and include those fringe benefits. In addition, **Senate Bill 931**, which would change the Borough Code, originally permitted the payment of workers' compensation to elected and appointed borough officials. That provision was removed on the Senate floor.

**Senate Bills 602 and 772** were approved 45-1 and **Senate Bill 931** was approved 46-0.

All three have been referred to the House Local Government Committee.

\*\*\* **Debts Incurred For Property Assessments** -- **House Bill 1146**, approved 49-0 in the Senate, allows counties to go into debt (borrow money) to finance countywide property reassessments.

The state's Local Government Unit Debt Act does not allow the assumption of debt for this purpose, only for capital projects.

This has left many counties unable to afford property reassessment. The Senate approved similar legislation (**Senate Bill 1167**) last November which was referred to the House Local Government Committee. House Bill 1146 was signed into law as **Act 34** on April 30, 1986.

\*\*\* **City Council Participation On Retirement Boards** -- **House Bill 2325** would allow members of city councils in third class cities to choose a member of council to sit on the retirement board, if the council members participate and are members of the retirement board. Approved 50-0 by the Senate, the bill was signed into law as **Act 128**-1986 on July 18.

\* **Deputy Treasurers** -- The Senate voted 48-0 to allow county treasurers to appoint a second deputy treasurer in case the deputy treasurer is not available to carry out his duties. **Senate Bill 646** affects third through eighth class counties. State law already provides for a second deputy prothonotary and recorder of deeds, and sheriffs and coroners may appoint as many deputies as they need.

**Senate Bill 646** has been referred to the House Local Government Committee.

\*\* **Municipal Purchasing Contracts** -- **Senate Bill 1421**, approved 49-0 by the Senate, would allow local municipalities to participate in purchasing contracts within their counties. The program now exists in Allegheny County and a similar arrangement exists between local municipalities and the state government for the purchase of major equipment such as police cars. Amended and approved by the House 197-1, **Senate Bill 1421** has been returned to the Senate Rules & Executive Nominations Committee.

\* **Uniform Property Identification** -- **Senate Bills 135, 136, 137 and 1069**, all approved 50-0 by the Senate, would establish a uniform property identification system at county levels.

Apparently there is some problem in recorder of deeds offices around the state in accurately identifying, listing and ultimately valuing parcels of property, particularly for the purpose of assessment.

The bills also provide for an indexing system to be used in each recorder of deeds office, providing for a uniform parcel identification number to appear on all recorded instruments such as deeds, mortgages and recorded subdivision plans.

Floor amendments to **Senate Bill 136 and 1069** establish the same provisions for those counties that have "commissioners of deeds."

All four bills have been sent to the House Local Government Committee for consideration.

\* **Return On Assessment Overpayment** -- **House Bills 35 and 36** would require that refunds be given for the overpayment of real estate taxes as a result of an error in assessment. Included are appeal processes. **House Bill 35** amends the general county assessment law. **House Bill 36** amends second and third class county codes. Both were approved 50-0 by the Senate and returned to the House for consideration of Senate amendments.

\* **Property Assessor Certification** -- **Senate Bill 1141**, approved 49-0 by the Senate, would establish an assessors certification law in Pennsylvania. It was referred to the House Finance Committee, where it remains.

It would affect all counties except Philadelphia and Allegheny, whose guidelines are already more stringent, with certification procedures to be performed by the state Tax Equalization Board.

According to the Assessors Association of Pennsylvania, there are about 1,000 assessors in Pennsylvania and only half are certified.

Certification requirements include 90 hours of instruction and a qualifying exam. Any assessor who has already received the equivalent instruction and has been assessing property for at least one year could receive automatic certification under the proposed measure. A provision requiring membership in a recognized professional organization was removed on the floor of the Senate.

**Senate Bill 1141** would also provide \$10,000 for establishment of this system, but since the Tax Equalization Board would have the authority to establish fees to cover costs, additional state funds are considered unnecessary.

**C Insurance Coverage for Township Supervisors** -- Originally intended to permit second class townships to maintain and repair private roads the township uses as a sole means of access to a public facility, **House Bill 954** was amended to also provide for insurance coverage of township supervisors and provide for the compensation and reimbursement of officials on township business.

In addition, supervisors could be reimbursed for mileage driven on township business, other than attendance at regular or special supervisor meetings.

Another provision states that a supervisor cannot participate in benefits such as pensions or annuities, unless that supervisor is also a superintendent, road master, laborer, secretary, treasurer or secretary/treasurer. They must also meet the same requirements as other employees who are eligible to participate.

An approved floor amendment concerns local appropriations for neighborhood crime watch programs. No local official can be held liable for voting in favor of such appropriations.

The House voted 53-145 to non-concur, setting up a conference committee. Conferees are Representatives Fryer, Rudy and Foster and Senators Corman, Wenger and Lewis.

\* **Worker Compensation for Volunteers** -- Volunteer firefighters and members of lifesaving and rescue squads and ambulance corps could be eligible for worker's compensation under **SB 607**, approved by the Senate 47-0.

In addition, floor amendments to the bill would require that state Department of Labor and Industry vacancies in the position of worker's compensation referee be filled.

Under the bill, "council of governments" would be included in the definition of "municipality." A council of government (COG) is a voluntary body of two or more municipalities jointly cooperating in performing municipal functions, powers or responsibilities.

They have no taxing powers.

Volunteer groups are, by their makeup, not employed by any particular community, which has resulted in a lack of coordination or insurance coverage if a worker is injured in the line of duty.

If **Senate Bill 607** is enacted, volunteer workers could be eligible for worker's compensation, if the program is handled under the jurisdiction of a COG. The COG would be liable for payment of compensation.

Senate floor amendments attempted to resolve the ongoing problem of too much backlog for too few worker's compensation referees. The amendments would require that vacancies be filled within sixty days of when they occur (also see **SB 1451**, Labor & Industry).

Neither the legislation nor the amendments make any mention of how many positions there should be, so there is still no way to determine whether there is an actual vacancy, or whether a position has been administratively eliminated.



In 1980 there were 40 referee positions across the state.

Currently there are 34 referees, with three other people being trained. The complement has decreased in the face of a continuously increasing backlog of 16,000 open claims.

**Senate Bill 607** has been referred to the House Local Government Committee, where it has remained since May 8, 1985.

**\*\* Councils of Government** -- Approved 48-0 by the Senate, **House Bill 1790** formally defines "council of governments" (COG) as a voluntary body of two or more municipalities jointly cooperating in performing municipal functions, powers or responsibilities.

Under this bill, a COG has general corporate powers and functions, exclusive of taxing powers, approved by its member municipalities.

Although some COG's do exist, this would be the first time they would be defined by state law.

It is similar to **Senate Bill 604**, already approved 49-0 by the Senate, currently in the House Local Government Committee.

\* **Independent Auditors** -- **Senate Bill 687**, approved 48-0 by the Senate, gives second class townships the option of appointing independent auditors, rather than electing them. Appointed auditors would be required to make an official presentation of their critique to the state Department of Community Affairs, who would take whatever action is necessary. The legislation also gives township supervisors the responsibility to annually fix their own compensation when they act as superintendents, road masters or laborers. That duty is now performed by elected auditors.

**Senate Bill 687** has been referred to the House Local Government Committee, where it has remained since June 10, 1985.

\* **Milk Inspection/Property Maintenance** -- Approved 48-0, **Senate Bill 683** brings two practices into law. It eliminates the duty of milk inspection for boroughs, a process already handled by the state Department of Agriculture. In addition, **SB 683** allows boroughs to enact and enforce ordinances concerning property maintenance. Many boroughs have already adopted standard property maintenance codes, although current law does not specifically say they can do this.

The bill was referred to the House Local Government Committee June 3, 1985.

\* **Voluntary Tax Abatement** -- **Senate Bill 673**, approved 46-0, permits local voluntary property tax abatement programs for new residential construction.

The legislation, to be known as the New Home Construction Local Tax Abatement Act, permits local taxing authorities (municipalities or school districts) to implement the programs for up to two years, granting tax exemptions based on improvements expected to currently unimproved property.

Improvements include the erection or construction of one or more residential buildings in areas to be pre-determined by the local governing body. This zoning must be done by ordinance or resolution, following a public hearing.

**Senate Bill 673** has been sent (October 25, 1985) to the House Local Government Committee.

**\*\* Voluntary Tax Abatement** -- **House Bill 1921**, similar to **Senate Bill 673** (above), has been returned to the House for consideration of Senate amendments.

**House Bill 1921**, approved 50-0, would now require that local officials need to approve affixed boundaries of unimproved residential property before they could adopt a tax abatement

program. A public hearing would be required before the boundary ordinance or resolution could be adopted.

\* **Local Election By District** - Originally intended to provide for an increase in dues payable to county commissioner associations, **Senate Bill 1145** would now allow for changes in the method of electing a municipal governing body.

The City of Pittsburgh, a home rule municipality, has considered the possibility of changing its charter to allow for the district election of city council members. However, current Home Rule law requires charter changes to be done following recommendations of a charter study commission.

**Senate Bill 1145** would eliminate the need for a charter study commission. If such a move would be approved by referendum, however, apportionment would be done by an apportionment committee of city residents.

Approved by the House as amended, the measure has been returned to the Senate Rules & Executive Nominations Committee.

\* **Property Tax Assessment Appeal Hearings** -- Also originally intended to provide for an increase in dues payable to county commissioner associations, **Senate Bill 1144** would now provide fourth through eighth class counties with an appeal process.

Already approved by the House Local Government Committee, the measure has been referred to the House Appropriations Committee for consideration.

\* **Late Penalties** -- On a 47-1 vote, the Senate approved legislation (**SB 306**) which would permit Delaware and Montgomery counties (second class A) to impose a 12 percent penalty on late filings of the intangible property tax. The intangible property tax applies to personal property such as bank accounts and stocks.

The bill has been referred (October 7, 1985) to the House Urban Affairs Committee.

### **Military and Veterans Affairs**

\*\*\* **Extension of Vietnam Herbicides Commission** -- Approved by the Senate 48-0, **House Bill 724** extends the life of the Vietnam Herbicides Information Act and the Vietnam Herbicides Commission, scheduled to sunset June 30, 1985. The extension is for two years, through June 30, 1987.

The 15-member commission is mandated to present a final report on its conclusions and recommendations by that time. Under previous enabling legislation the commission is required to make a specific study of dioxins (Agent Orange) and other chemicals used during the Vietnam War.

**House Bill 724** was signed by the governor June 30 as **Act 28-1985**. It is identical to **Senate Bill 688**, approved earlier in the year by the Senate but not acted on by the House.

\*\*\* **Pensions For Paralyzed Veterans** -- **House Bill 179**, signed as **Act 17-1986** March 19, authorizes a \$100 per month pension be paid to certain paralyzed Pennsylvania veterans.

Paralyzed veterans covered are those who served during war or armed conflict and lost two or more limbs or the use of those limbs in service-related duties. A Senate floor amendment extended the definition to include those veterans injured during peacetime actions such as Grenada or Lebanon.

The state Department of Military Affairs estimates the cost of such pensions at about \$1 million a year. Eligible veterans would have to apply for this pension.

The legislation was approved unanimously by the General Assembly.

\*\*\* **Veterans Commission Duties -- House Bill 1207** requires the State Veterans Commission to advise the chairmen of the House and Senate Military & Veterans Affairs committees on matters of interest to veterans. An amendment added notification to include the American Ex-Prisoners of War, Inc.

A Senate floor amendment reduced the size of the commission from 18 to 17 members.

**House Bill 1207** was signed as **Act 84-1985** on December 6.

\*\*\* **Placement of U.S. Flags --** The Senate, by a 43-0 vote, has approved legislation mandating that flags provided by county commissioners to various veterans' organizations for Memorial Day placement be colorfast and U.S. made.

**House Bill 968**, earlier approved 199-0 by the House, also increases the penalty to a summary offense (with a \$300 fine) for cemetery authorities who remove those flags before Independence Day. Failure to pay the imposed fine would result in imprisonment of up to 90 days.

It was signed as **Act 66** on June 12, 1986.

\* **Funeral Expense Reimbursement --** By a 47 - 0 vote, the Senate approved **Senate Bill 355**, which will provide for the reimbursement of funeral expenses for veterans living in state veterans' homes.

Under current law, if a deceased service person dies while living in the Pennsylvania Sailors and Soldiers Home in Erie, the home county of the service person reimburses the Home to a maximum of \$75, if the Home paid for funeral and burial expenses in a local cemetery.

**Senate Bill 355** expands that procedure to all state veterans homes in Pennsylvania for third through eighth class counties.

The bill also sets a one-year time limit to apply for veterans' grave markers, unless the veteran died while on active duty or was considered missing in action.

Under two companion bills, **Senate Bills 557 and 558**, approved 48-0, first and second class counties would be required to reimburse state veterans homes if the homes paid for funeral expenses and burial of a veteran at a local cemetery.

**Senate Bill 355** amends the third through eighth class county codes.

The bills have been referred to the House Military & Veterans Affairs Committee, where they have remained since April 10, 1985.

\*\* **Tax Exemption for Survivors -- Senate Bill 680** is a joint resolution proposing a state constitutional amendment extending the property tax exemption to the unmarried surviving spouse of a deceased veteran who had been eligible for the exemption. The amendment was approved in a statewide voter referendum last fall 1,075,121 - 290,795. **Senate Bill 1210** is the implementing legislation of the approved amendment.

The state Constitution provides that certain disabled veterans (blind, paraplegic, double or quadruple amputees or declared 100 percent permanently disabled) are eligible for a property tax exemption for their residences.

When **Senate Bill 680** was approved 48-0 by the Senate, it was the second time the resolution was considered, as required by law. House approval was also a unanimous 201-0 vote. It was approved in 1984 by the General Assembly as **House Bill 1569**.

**Senate Bill 680** became **Resolution 2-1985** before being placed on the ballot.

**Senate Bill 1210**, approved 48-0, grants real estate tax exemptions to the unmarried widows or widowers of disabled veterans, by placing into statute what was amended into the constitution.

If the deceased veteran had been disabled as defined in the bill and the unmarried widow or widower owns her or his principal dwelling solely and is determined to be in need by the State Veterans' Commission, the widow or widower is entitled to the tax exemption.

If the widow or widower remarries, the exemption ends.

**Senate Bill 1210** would be applicable to tax years beginning on or after January 1, 1986.

The bill has been referred to the House Military & Veterans Affairs Committee, where it has remained since December 11, 1985.

\* **Military Property Returns -- Senate Bill 922** started out as a simple piece of legislation designed to bring criminal charges against those who did not return military property and equipment. Through a Senate floor amendment, the legislation now expands the definition of aggravated assault as it relates to firefighters and transit employees. It also upgrades the gravity of an assault conviction.

Approved 47-0, **Senate Bill 922** was referred to the House Judiciary Committee June 28, 1985.

\* **Grants to Children** -- The Senate voted 44-0 to extend educational payments to the children of veterans of the Vietnam war and other conflicts, who died in action or sustained service related disabilities.

**Senate Bill 352** would raise the amount of educational grants' currently paid from \$200 per semester or term to \$500. The grants had been awarded to eligible children of veterans of the Korean conflict or earlier wars. This bill extends eligibility to include the Vietnam war or peacetime actions such as have occurred in recent years in Granada or Lebanon.

The applicant must be a full time student, between the ages of 16 and 23. A student exceeding the maximum age, but who has not yet completed a course of study, can remain eligible until the course is completed, but the gratuities may not be paid to any child for a period longer than four scholastic years or beyond the child's 27th birthday.

Of the \$75,000 appropriated for the last two fiscal years, about \$40,000 was spent per year on an average of 60 to 70 students. The total participation rate is expected to increase with the inclusion of Vietnam era veterans' children, but the' current appropriation is expected to cover the expenses.

**Senate Bill 352** has been referred to the House Military & Veterans Affairs Committee, where it has remained since October 23, 1985.

\* **Tuition Credits** -- Legislation which would provide higher education benefits to Pennsylvania National Guard technicians was approved 49-0 by the Senate and has been referred to the House Military & Veterans Affairs Committee.

**Senate Bill 1163** would allow payment for one-half the tuition cost of each credit taken, up to \$40 per credit, with a maximum of six credits per quarter or semester, up to 12 credits per year. Currently, tuition is only provided for non-technician Guard personnel enrolled in vocational, trade or business schools.

\* **Veterans' Memorial Commission -- House Bill 124**, approved 49-0 in the Senate, would create the Pennsylvania Veterans' Memorial Commission, which would have the authority to erect a permanent memorial at the Indiantown Gap Memorial Cemetery in honor of Pennsylvania veterans.

Under **House Bill 124**, the commission would be permitted to collect money for the memorial from private and public sources.

There would be 19 commission members appointed from the legislature, the executive branch, and various military and veteran groups.

The commission would have three years to complete its task.

The bill will be returned to the House for concurrence on Senate amendments.

## State Government

\*\*\* **Sunshine Law Strengthened** -- Legislation (**SB 303**) closing the "loopholes" in the state's Sunshine Law was signed by the governor on July 3 as **Act 84-1986**.

This legislation is the General Assembly's response to a court ruling on the 1974 Sunshine Law. The 1977 ruling allowed that only sessions involving an official vote need to be open to the public. Consideration leading to the vote could be done behind closed doors.

The legislation provides that the public has the right to have notice of meetings of all Commonwealth "agencies," including boards, committees, authorities or commissions. It also includes state, municipal, township or school authorities, school boards, or commissions, and boards of colleges and universities.

A meeting is defined as any gathering attended with the intent to take official action or discussion leading to an official action.

**Senate Bill 303**, passed by the Senate 46-0 and the House 201-0, strengthens the public notice provisions of the 1974 law.

It also requires that at all meetings, the votes of each member on any matter be publicly cast and recorded. Previously, only the minutes needed to be recorded.

Anyone attending a meeting can now use devices (audio and/or video) to record the proceedings. The General Assembly can, however, set its own rules regarding recording devices at its sessions and hearings.

Compromise amendments had been developed to gain support of local government officials, who had previously opposed the legislation. Amendments revolved around such definitions as those of deliberation, administrative action, agency business and executive session.

Exceptions to the open meeting policies include consideration of personnel matters, real estate transactions and labor negotiations. Decisions on admissions, academic standings or investments by college and university boards are also exempted.

The General Assembly caucuses, its ethics committees, and the state System of Higher Education Board meeting on such things as admissions and investment policy are not affected by **SB 303**.

\*\*\* **Simulcasting of Horse Races** -- **House Bill 24**, signed as **Act 3-1985** on April 18, allows for the simulcasting of intrastate harness racing. The Senate approved the bill 38-9 and the House had concurred 156-39 in Senate amendments.

The legislation is similar to a bill approved last session, which allowed for experimental simulcasting of intrastate harness racing for the Meadows track in Erie in 1984.

**House Bill 24** was originally intended to extend the experimental time period for another year, but an amendment offered in the Senate State Government Committee eliminated the experimental status.

In addition, under this legislation, the State Harness Racing Commission is authorized to permit other licensed corporations to simulcast intrastate racing if certain criteria are met. To date, the Meadows is the only track that meets the essential criterion -- a track which conducted less than 80 days of racing in the previous calendar year. Floor debate clarified that tracks which had as low as "zero" harness racing days could be eligible.

Opposition came from legislators who want to see the privilege extended to all licensed tracks, regardless of the number of racing days held.

\*\*\* **Horse/Harness Racing Commissions Continued** -- Legislation to continue the Pennsylvania Horse Racing Commission and the Pennsylvania Harness Racing Commission for another ten years was signed by the governor on May 16 as **Act 63-1986**. A **Senate Bill 1259** conference committee report was approved by the Senate 28-20, and the House 179-15.

As originally approved in the Senate, **SB 1259** related primarily to administrative reforms within the commissions, which had been identified as necessary during the Sunset Review of the commissions and from testimony at public hearings.

In the House, the bill was amended to incorporate non-primary (off-track) betting sites and intrastate simulcasting.

The legislation, as enacted, initiates a comprehensive review of pari-mutuel wagering opportunities for off-site betting (including actual experimentation with an off-site betting system), provides tracks with the ability to participate in intrastate simulcasting, creates an economic incentive for new tracks, and seeks to evaluate the race horse testing program.

It was argued that this temporary moratorium approach is a means to generate the information necessary to determine whether such wagering is desirable and legal. The study is to be completed by October 31, 1986, and would include proposed regulations of off-track betting.

Basically, the extensive legislation provides for the continuation of each racing commission as a separate organization. It enables either commission to suspend or revoke the license of a racing participant found guilty of a felony charge of a drug or alcohol violation by any government unit or racing commission.

b requires the fingerprinting of all racing participant applicants. Exemptions could be granted for non-horse or non-racing related positions. Complaint procedures must be published in daily racing programs.

Intrastate simulcasting between two licensed corporations operating within the state would be permitted. provisions are made to guarantee a minimum number of live races and racing days for a corporation to participate in simulcasting.

The legislation would establish an economic incentive of one half of one percent to newly licensed racing corporations by reducing their state take-out tax to one percent for four years from the issuance of their license. provisions are made to limit the ability of existing corporations to reincorporate and obtain a new license.

The bill would protect the horsemen's funds on deposit with a licensed racing corporation by requiring the corporation to issue a letter of credit. The letter of credit would be the greater of \$1 million or 110 percent of the highest monthly average balance in the horsemen's account in the immediate prior year.

\*\*\* **Cross-Filing Eliminated** -- The General Assembly approved legislation to eliminate cross-filing in primary elections for statewide judicial candidates.

This restriction on statewide judicial candidates to run within their own political parties in primaries is

contained in a conference committee report on **HB 1000**, adopted 46-3 by the Senate and 190-7 by the House, and signed by the governor on February 19 as **Act 11-1986**.

Cross-filing for school board candidates, district magistrates or common pleas court judicial candidates is still permitted as is cross-filing for Philadelphia's municipal or traffic court judicial candidates.

The bill also requires the Attorney General to prepare explanations of statewide ballot questions and proposed constitutional amendments in plain language. When the referendum questions are local, county boards of election would have to post and publish the explanation notices.

Another provision in the bill requires that when election districts are re-divided or altered by county courts, they have clearly visible physical boundaries.

The legislation added the category of "minor party candidates," who must collect the same number of signatures as were tallied by two percent of the vote for the winner of the previous election in any race. In some statewide races, that would require the signature of tens of thousands of voters, making it more difficult for minor parties to place candidates on the ballot.

**\*Changes In Nominating Petition Requirements** -- The Senate approved (50 to 0) a bill (**SB 1541**) that eliminates the requirement that a signer of a nominating petition list an occupation on-the petition.

The bill also frees signers from having to list individually their municipality if they are all from the same municipality.

The bill was referred to the House State Government Committee.

\*\*\* **Absentee Ballot Use** -- **House Bill 240** became Joint **Resolution 1-1985** and received voter approval in November, 1985.

The legislation permits the use of absentee ballots by persons unable to vote because of the observance of a religious holiday or by county employees unable to vote because of election day duties.

It amends the state Constitution. This is the second session in which this bill was approved, which made it eligible for the statewide voter referendum. The final vote was 912,845 - yes} 434,516 - no.

\*\*\* **U.S. Constitution Bicentennial** -- Legislation to establish a commission for the Pennsylvania commemoration of the U.S. Constitution Bicentennial was signed June 26 by the governor. Under **House Bill 2 (Act 26-1985)**, the commission would promote and coordinate bicentennial activities.

The 30-member commission has the power to plan and develop bicentennial activities; encourage other organizations to participate in the commemoration; and solicit and raise money.

A report incorporating the commission's recommendations was to be submitted to the governor and the General Assembly by March 1, 1986. The commission is to terminate December 31, 1988.

\*\*\* **Martin Luther King, Jr. Holiday** -- **House Bill 1892** changed the state's observance of Martin Luther King, Jr. Day from January 15 to the third Monday in January, bringing the state into conformity with the federal observance of the holiday.

Approved 48-0 by the Senate and 194-0 in the House, **HB 1892** was signed by the governor December 13 as **Act 88-1985**.

\*\*\* **Funding for Volunteer Corps** -- Legislation that calls for a referendum to approve \$10 million of indebtedness for loans to volunteer fire companies, volunteer ambulance services and

volunteer rescue squads was signed by the governor as **Act 106** on July 9. **Senate bill 542** was approved by the Senate 48-0 and 197-1 by the House.

Since 1976, the Pennsylvania Emergency Management Agency, using the Volunteer Fire Company, Ambulance Service and Rescue Squad Assistance Act, has provided 1,650 low-interest (two percent) loans worth \$43.5 million to volunteer organizations and companies, using \$25 million in capital.

Loans are made from \$10 million approved by referendum in 1975 and an additional \$15 million approved by referendum in 1981.

The money is used for establishing or modernizing facilities to house firefighting equipment, ambulances and rescue vehicles.

In addition, volunteer groups can purchase firefighting equipment, ambulance and rescue vehicles, protective and communications equipment and other accessory equipment considered necessary for the proper performance of those organizations.

There have been no defaults since the loan program began.

\*\*\* **Civil Service Commission Per Diem Raise -- House Bill 1440**, signed as **Act 21** on March 21, increased the per diem payment to members of the state Civil Service Commission from \$50 to \$125. The legislation was approved 47-0 in the Senate and- 180 to 6 in the House. **HB 1440** also raised the ceiling for total annual payments from \$7,500 to \$27,500. The increase does not apply to current Commission members.

\*\*\* **State Hospital Ownership Transferred** -- Legislation (**HB 1813**) that conveys the Hazleton State General Hospital, its land, buildings and equipment for \$8 million to cover the hospital's debt to Northeastern Pennsylvania Health Corporation, a private, non-stock corporation, was signed as **Act 97** on July 9, 1986. The transfer of ownership should be completed by September 1.

Regulations related to patient care and continuity of services are included in the legislation.

The state has tried to get out of the general-hospital business at various times since legislation permitting divestiture to community control was enacted in 1923.

The original provision in **HB 1813**, a land transfer in Philadelphia, remains. It conveys more than 24 square feet of land from DPW to the City of Philadelphia, at half of fair market value (\$21,500). The land is to be used as an addition to the existing Fanny Kemble Abolitionist Memorial Park (Olgontz and Olney avenues).

\*\*\* **Charitable Reform Act** -- Sunset Review legislation on the Commission on Charitable Organizations was signed by the governor on April 30 as **Act 36**-1986. The Senate approved the legislation 49-0 and the House by 190-4.

**House Bill 1970** establishes the Charitable Organization Reform Act, which requires proper registration of charitable organizations, professional fundraisers and solicitors, and regulates the soliciting of property and money.

Repealing **Act 337**-1963, known as the Solicitation of Charitable Funds Act, **House Bill 1970** continues charitable registration and regulation by formalizing the process as a bureau within the Department of State.

In addition to establishing registration requirements, the bill sets up an advisory board, permits the department to establish the registration fees, requires charitable organizations to file a registration statement and pay the annual fee, and limits solicitation and fundraising expenses to no more than 35 percent of the actual contributions received.

**House Bill 1970** also restricts professional solicitors to no more than 15 percent of actual contributions



generated and requires the registration of solicitors and professional fundraisers.

Specifically exempted from registration are religious organizations, educational institutions, nonprofit and charitable hospitals, veterans organizations and their local chapters, public nonprofit libraries, nonprofit senior citizen centers, and parent teacher organizations.

\*\*\* **Clarification of Charitable Organizations** -- **House Bill 1321**, signed as **Act 72-1986** on July 1, clarifies legislation previously enacted exempting religious organizations from registration and solicitation requirements in effect for charitable organizations.

Previously, religious organizations were stricken from the charitable organizations list requiring them to comply with **Senate Bill 1970**.  
The Senate approved the bill 49-0 and the House by 190-1.

\* **State Goods Preference** -- **Senate Bill 384**, approved 47-0 by the Senate, would expand the protection provided to Pennsylvania goods and bidders from unfair discrimination imposed by sister states.

**Senate Bill 384** would provide that state departments, boards, commissions and authorities give preference to those bidders offering goods manufactured in Pennsylvania if the alternatives are from states which prohibit the purchase of goods made in Pennsylvania, This applies if the purchase would exceed \$1,500.

The same concept applies to the bidding of all public contracts which exceed \$1,500.

The Department of General Services is to prepare a list of the states which apply a preference favoring in-state good or prohibit out-of-state goods. The list will be published in the Pennsylvania Bulletin.

The bill was re-referred to the House Appropriations Committee on April 22, 1986.

\* **Deferred Compensation Program** -- **Senate' Bill 223**, approved by the Senate 50-0, establishes a voluntary deferred compensation program for elected or appointed officials and state employees.

A Deferred Compensation Program is similar to an Individual Retirement Account (IRA) in that it allows participants to set up an account of federally tax-deferred money, up to \$3,000 a year. (IRA's are limited to \$2,000 annually.) The tax is assessed when the money becomes available to the participant.

This program would not prevent participation in pension plans or in other IRA programs. It is already available to employees in the private sector and state employees in 48 other states.

The legislation provides that the administrator of the program would be the State Employees Retirement Board. Deferred income deductions would be included in calculating retirement and pension benefits but would not be a part of either program.

Participants would be expected to make a minimum contribution rate of \$10 per month.

The bill was referred to the House State Government Committee.

\* **Gifts for FA Historical & Museum Commission** -- **Senate Bill 806**, approved by the Senate 47-0, provides that the Pennsylvania Historical and Museum Commission may not refuse any gift, devise, or bequest. In cases where the commission wants to refuse a gift, a proposed regulation would have to be submitted to the Attorney General, The Independent Regulatory Review Commission and the General Assembly for review.

**Senate Bill 806** was referred to the House State Government Committee June 10, 1985.

\* **FTA Exemptions** -- **Senate Bill 870**, approved by the Senate 48-0, would exclude parent teacher organizations or associations from the need to register as charitable organizations. Current state law requires charitable organizations which solicit contributions to file a statement with the Department of State.

It has been referred to the House State Government Committee.

\* **Deaf Resource Centers** -- **Senate Bill 1038**, approved 48-1 by the Senate, designates three schools for the deaf as regional resource centers for hearing-impaired children and adults.

The schools are the Western Pennsylvania School for the Deaf, (Allegheny County), the Pennsylvania School for the Deaf (Philadelphia County), and the Scranton State School for the Deaf (Lackawanna County).

The legislation provides that the schools use what services they already provide, within current funding limitations, and expand them to include other hearing-impaired children and adults.

Services include comprehensive educational services, counseling, community education programs, and research and professional training programs.

The bill was referred to the House Health and Welfare Committee on June 9, 1986.

### **Aging and Youth**

\*\*\* **Senior Citizen Rebates** -- Income eligibility limits and inflation dividends in the senior citizen tax and rent rebate program were increased with the unanimous passage by the Senate of **HB 171**, which was signed by the governor July 11, 1985 into **Act 53**.

Specifically, the maximum income level per household for property tax or rent rebates and inflation dividends was increased from \$11,999 to \$15,000.

Under the new bill, the highest inflation dividend grant of \$125 will be paid to a household with an income under \$5,000. In the added income brackets, a dividend of \$30 will go to households with incomes between \$12,000 and \$13,000, and \$20 for incomes between \$13,000 and \$15,000.

Senior citizens earning between \$12,000 and \$13,000 a year will be entitled to a 15 percent tax or rent rebate, and households in the \$13,000 to \$15,000 bracket can receive a 10 percent rebate.

**House Bill 171** is similar to **SB 596** which was approved in the Senate in 1985 and referred to the House Health and Welfare committee.

\*\*\* **PACE in the Mail** -- The state's Pharmaceutical Assistance Contract for the Elderly (PACE) program includes dispensing prescription drugs to senior citizens by mail under **HB 175**, unanimously passed by the Senate and signed by the governor June 26, 1985 into **Act 27**.

Since its inception, PACE advocates have pushed for mail order pharmacy participation in the program. Two arguments for participation are: many senior citizens are too sick to leave their homes to pick up drugs, and pharmacies may not be located near the homes of PACE participants.

Under the bill, all mail-order pharmacy companies who want to participate in PACE must be licensed by the commonwealth and have their principal place of business in Pennsylvania.

The bill also allows the dispensing fee paid by the state to PACE pharmacy providers to fluctuate. The

dispensing fee is at least \$2.50 per prescription filled (the current rate), or the dispensing fee required by the Department of Welfare under its medical assistance program, whichever is greater.

A Democratic senator twice tried, but failed, to amend the bill to change the influence that DPW's medical assistance program would have in PACE. The first amendment, defeated 8-37, would have increased the PACE-permitted dosage from 30 days (the current prescription dosage) to 60 days. A second amendment, defeated 2-45, would have removed the bill section tying the PACE pharmacy dispensing fee to the DPW pharmacy dispensing fee, thus keeping the original PACE dispensing fee at \$2.50 per prescription, which is lower than the current rate.

Also included in the bill is a prescription drug education program for senior citizens. This statewide education program is to inform older adults of the dangers of prescription drug abuse and misuse.

**\*PACE Dispensing Fee -- Senate Bill 1180**, passed unanimously by the Senate, would give the Department of Aging sole authority in determining the dispensing fee for prescription drugs distributed under the Pharmaceutical Assistance Contract for the Elderly (PACE).

The bill would change the section in **Act 27** of 1985 which sets the dispensing fee for PACE at least equal to the dispensing fee for the Medical Assistance program.

Proponents of the bill say that the tie of the PACE dispensing fee to the Medical Assistance program dispensing fee directly connects PACE, and thus Lottery funds, to the Medical Assistance program.

**Senate Bill 1180** has been in House Health and Welfare Committee since Feb., 1986.

**\*Prevent PACE Abuse -- Senate bill 623**, which cleared the Senate 48-0, takes a "get tough" stance regarding fraudulent activity in the state's co-pay prescription program for the elderly (PACE). The bill has been in the House Health and Welfare Committee since April, 1985.

The measure, amending the PACE Act of 1983, provides for stiffer penalties for persons submitting false or fraudulent applications for claims. The penalties apply both to the provider (the person dispensing drugs) and the beneficiary (senior citizen), or anyone aiding or abetting in the submission of a false claim or application.

The PACE program, supported by the state Lottery, enables eligible senior citizens to purchase prescription drugs for only \$4. Income eligibility requirements are \$12,000 a year for single senior citizens and \$15,000 a year for couples.

A consumer submitting false claims or applications would be charged with committing a misdemeanor of the second degree. The charge provides for a maximum fine of \$5,000 and two years in prison. In addition, the defendant would be required to repay three times the value of the material gain.

Providers who are convicted of violating the law would face a prison term of up to seven years and a maximum fine of \$15,000.

A subsequent violation and conviction carries a maximum fine of \$25,000 and 10 years' imprisonment.

In addition, providers convicted of violations would have to repay three times the value of material gain, would be ineligible to participate in the PACE program for five years and would be subject to a one-year license suspension.

**\*Senior Citizen Abuse --** The Senate unanimously approved **SB 5** that would establish and fund a statewide system of reporting and investigating claims of senior citizen abuse, neglect, or exploitation.

The measure was first referred to the House Health and Welfare Committee but was then referred to the

House Appropriations Committee in Feb., 1986.

The proposal would require health care, social service, and law enforcement officials to report to the 50 Area Agencies on Aging (AAAs) any suspicions of abuse, neglect, exploitation, or abandonment of citizens aged 60 and over.

All reports to AAAs would have to be investigated, and all relevant records made available to investigators. Immunity from civil or criminal liability would be available for officials in any required testimonies related to an investigation.

After investigation, any unsubstantiated reports would be deleted from the AAA's records, although records may be maintained in a way that could substantiate a pattern of abuse. Substantiated reports would be immediately reported to local law enforcement officials, and the AAA would recommend a course of action.

### **Community and Economic Development**

\*\*\***PERF-funded Economic Initiative** -- A major statewide economic revitalization package of 12 bills cleared the General Assembly in June, 1986 and were signed by the governor.

The package, resulting from Democratic initiatives, is designed to aid areas throughout the state, particularly western Pennsylvania, which are still economically depressed.

Funding for the various programs will come from reshuffling available funding in the \$190 million Pennsylvania Economic Revitalization Fund (PERF) proposed by Democrats two years ago. More than \$72 million in PERF money is appropriated in the 1986-87 general fund budget.

The economic initiative will direct aid to especially hard hit communities such as those in the Monongahela, Beaver, and Shenango valleys. Programs include funding for minority business assistance, business infrastructure development, small business incubators, technology renovations, distressed area tax credits, reduction of state match requirements, and community economic recovery programs.

Most of the package of six Senate bills and six House bills represent a revision of earlier PERF legislation which proved largely ineffective because proper targeting for the aid was lacking. Much of the PERF money was left unspent.

Ten of the 12 bills listed in this section went to Senate- House conference committees, were reported out, approved by both chambers, and signed into law by the governor. **Senate Bill 1414** and **HB 2118** did not go to conference committees.

**Senate Bill 1461** reimburses municipalities for real estate tax exemptions granted to rebuild rundown properties in "enterprise zones." The LERTA initiative will receive \$3 million in funding in the budget. The bill was signed into **Act 108** by the governor on July 9, 1986.

Another measure, **Senate Bill 1462**, provides tax credits to private companies who rehabilitate, expand or improve buildings in "enterprise zones." Tax credits of up to \$4 million are authorized. The bill was signed by the governor on July 9, 1986 into **Act 109**.

The budget appropriates \$3 million to fund **Senate Bill 1463** which reduces the local matching requirements for economic and community development programs for financially disadvantaged municipalities. The governor signed the bill into **Act 110** on July 9, 1986.

Export assistance loans will be available for Pennsylvania companies under **Senate Bill 1466**, signed into **Act 111** by the governor on July 9, 1986. A total of \$15 million in PERF loans

is available for the program.

**Senate Bill 1468** provides grants to distressed municipalities to develop long-term economic recovery strategies.

An appropriation of \$1 million is budgeted for the program. The governor signed **SB 1468** into **Act 112** on July 9, 1986.

Grants will be added to loans already available under the Small Business Incubator Act with the governor's signing of **House Bill 792** into **Act 101** on July 9, 1986. The bill also establishes guidelines for acceptance as an incubator. A total of \$5.5 million of PERF money is budgeted for this program.

**House Bill 792** is identical to **SB 1464** which was passed unanimously by the Senate and ended in the House Business and Commerce Committee.

**House Bill 2101** would similarly add grants to loans already available under the Business Infrastructure Development program (BID). Private companies on private property located in "enterprise zones" or distressed municipalities could apply for grants. The PERF budget section has an appropriation of \$27 million listed for the program. The governor signed the bill into **Act 103** on July 9, 1986.

**House Bill 2101** is identical to **SB 1465**, passed unanimously by the Senate and sent to the House Appropriations Committee.

The Milrite Council will be able to apply for grants and use its mediation efforts to aid in labor-management disputes under **House Bill 2104**. The bill was signed into **Act 104** on July 9, 1986.

**House Bill 2100** will make grants available, along with state loans, in the Employee-Ownership Assistance program. Firms which have some degree of employee ownership could apply for grants to conduct feasibility studies of market conditions. An appropriation of \$4,949,000 is included in the budget. The governor signed the measure into **Act 102** on July 9, 1986.

**House Bill 2100** is identical to **SB 1467**, passed unanimously by the Senate and sent to the House Appropriations Committee.

**House Bill 2098**, signed by the governor into **Act 78** on July 2, 1986, continues funding for the Pennsylvania Conservation Corps, another PERF program. An appropriation of \$20.7 million is budgeted for the program's operation in 1986-87. The bill also changes the age limits to include persons from 18 to 25-yearsold.

A companion bill to **HB 2098**, **Senate Bill 1414**, extends the life of the Recreational Improvement and Rehabilitation Act to June 30, 1987. This act provides financial assistance to municipalities to purchase materials used by the Pennsylvania Conservation Corps in municipal projects. An appropriation of \$6 million is included in SB 1414, which was passed by both chambers and signed into **Act 107** on July 9, 1986.

Corporate foundations could make money or equipment donations to engineer degree-granting schools under **House Bill 2118**. Schools receiving grant donations must use the money only for acquiring or upgrading equipment. The governor signed **HB 2118** into **Act 105** on July 9, 1986.

**\*Technologically Competitive Manufacturers -- House Bill 2103**, a PERF program bill yet to be enacted, would provide technical and financial assistance to manufacturers to enable them to remain technologically competitive in their fields. This bill is identical to **SB 1460**, passed unanimously by the Senate and sent to the House appropriations committee.

The Senate amended **HB 2103** and the House non-concurred in Senate amendments on July 1, 1986.

**\*\*\*Retail Development with Bonds -- House Bill 1832**, signed by the governor July 9 into **Act 98**, changes the allocation formula for industrial revenue bonds, allowing them to be used for retail development.

The bill allows each county to use up to five percent or \$1 million, whichever is greater, of their bonds for retail development. It is identical to **SB 1412**, passed unanimously by the Senate and sent to a House committee.

**\*\*\*Boost for Apparel Industry --** The state's apparel industry will be helped by a \$4 million loan program made available under **SB 927**, which unanimously passed the Senate and was signed into **Act 104** by the governor on Dec. 20, 1985.

The bill is intended to help the Pennsylvania apparel industry compete with foreign-made products.

An apparel industry loan board is established and guidelines are set for the loans which can be used for apparel industry capital development projects, including modernization, upgrading, or replacement of equipment.

The loans, which will come from the Pennsylvania Economic Revitalization Fund, cannot exceed 50 percent of the total project cost, or \$200,000, whichever is less.

Also restricted by the bill is the move of any business from one part of the state to another unless there is a 15 percent increase in net employment.

In Pennsylvania, one out of every three manufacturing jobs is related to the apparel and, textile industry. In recent years, the industry has been flooded by imports which have endangered some 950,000 jobs nationwide in the domestic apparel industry.

**\*\*\*Industrial Development Bonds --** A formula allocating the use of tax-free bonds by state and local authorities was approved by the General Assembly and signed by the governor into **Act 113** on Dec. 20, 1985.

The formula to carve up Pennsylvania's yearly allowance of nearly \$1.8 billion in tax-free bond sales was contained in **SB 1204** which cleared the Senate 46-1.

Local county authorities are allocated a total usage of about \$1.2 million in tax-free bond sales, with the remainder of the federally imposed limit of \$1.78 billion for Pennsylvania to be used by the state.

The ceiling on raising revenue by the sale of tax-exempt bonds was imposed on states in 1984 by the federal government as a way of reducing the federal budget deficit. Pennsylvania's allocation was set at \$150 per capita, or \$1.78 billion.

In the past, Pennsylvania has relied heavily on bond revenues for industrial development and other private sector activities.

When the federal limit was imposed, the use of tax-free bonds within the state was determined by gubernatorial proclamation in the absence of any legislation.

This bill replaces the governor's proclamation, establishing a formula based on population, unemployment, prior use of industrial development bonds and community need.

Generally, county and local agencies can use the bond revenues for a variety of industrial development projects, industrial parks, student loans and so forth. State usage of bond sale revenues is targeted to solid waste and pollution control projects, and airport development.

**\*Trade Council-- Senate Bill 271** would create an international trade council in Pennsylvania. The bill, passed unanimously by the Senate, has been in the House Federal-State Relations Committee since June, 1985.

This bill, identical to **SB 1057** passed unanimously by the Senate last session, would establish the Pennsylvania International Trade Council as the coordinating body of international trade in the state.

The council would coordinate activities between the General Assembly and the Department of Commerce. It would use all available resources to enhance international trade capabilities of businesses, industry, and agriculture in the state. Members would include: 13 governor appointees, four legislators, the lieutenant governor and the Secretary of Commerce.

A Senate floor amendment would subject the council to sunset provisions, forcing it to be evaluated and reviewed before Dec. 31, 1989.

### **Public Health and Welfare**

**\*\*\*Health Care Cost Containment** -- A bill (**SB 293**), heralded as the first step in controlling health care costs in the commonwealth, was signed by the governor into **Act 89** on July 8, 1986.

**Senate Bill 293** originally passed the Senate as an environmental resources bill which was gutted and rewritten with the health care cost containment provisions.

The legislation creates a 21-member Health Care Cost Containment Council appointed by the governor and the legislature.

The council is to collect and publish data on the quality, effectiveness and price of the treatment provided by hospitals and certain other medical and surgical facilities. This data should enable consumers to comparison-shop for medical care.

Comparisons of hospitals and doctors on an individual, regional, or even statewide basis are the council's goals.

However, information on doctors will be limited to services rendered by them inside hospitals and will not include office charges.

In addition, the council is to gather detailed information on the quality of health care provided including mortality rates, infections and other medical complications, and numbers of readmissions to hospitals.

The legislation provides for an initial \$2.25 million in funding to establish the council and pay for its staff. The law allows the council to hire its own staff and private consultants to perform tasks such as the development of a computerized system to process the data.

Also included is a requirement that the council conduct a study and come up with a plan to provide health care for persons who cannot afford adequate health care insurance, but are not poor enough to qualify for government-paid health care.

**\*\*\*State Monies for WIC** -- with the governor's signing of **HB 2454** into **Act 121** on July 10, 1986, Pennsylvania, for the first time, will use state funding to supplement a federal nutrition program for women and children.

**House Bill 2454** is the enabling legislation for the state to add to its federal share of funding for the Women, Infants, and Children (WIC) food program. A \$7 million appropriation is contained in the state's 1986-87 budget.

WIC is a supplemental food program which provides nutritional foods to pregnant and postpartum women and children under five-years-old, who have a health or nutrition-related deficiency. Eligible women and children

could receive eggs, milk, cheese, high iron cereals, fruit juice, infant formula, and peanut butter or beans.

The bill specifies that at least 80 percent of the state funding for WIC be used for food costs and only 20 percent for administration costs.

As specified in the bill, a statewide outreach program must be started for WIC. An evaluation of the program is also required and the Secretary of Health must annually report to the General Assembly on the services provided by WIC.

Another bill, **SB 1543**, was originally passed by the Senate to provide authorization for state supplemental funding for WIC, but was sidetracked by amendments.

\***Anatomical Gifts** -- **House Bill 90**, amended and unanimously passed by the Senate, would allow persons who die with valid donor cards to donate any organs or tissues, without requiring additional consent.

As first passed by the House, the bill applied only to the donation of eyes.

The Health Department would be required to draw up standards and guidelines for hospitals to develop anatomical gifts programs.

Floor amendments to the bill removed requirements that notations be made on death certificates that a person either had a donor card or that a request for an anatomical gift had been made, whether or not the request was granted.

An additional amendment would require that hospitals, in setting up their anatomical gifts guidelines, take into account the deceased individual's religious beliefs or not suitable for organ or tissue donation.

Another floor amendment would allow the state Department of Health to issue exemptions to hospitals unable to set up anatomical gifts programs.

The bill, approved by the Senate on June 25, 1986, has been returned to the House for concurrence in Senate amendments.

\*\*\***Statewide Emergency Service** -- Pennsylvanians have access to emergency medical care regulated and licensed by the state under **SB 632**, approved unanimously by the Senate, and signed into **Act 45** by the governor on July 3, 1985.

**Senate Bill 632** was amended to contain the same provisions as **HB 1416**, a bill intended to coordinate area wide emergency systems into a unified statewide system, which could also be coordinated with systems in neighboring states.

Under the bill, the Department of Health sets the standards for the new emergency medical service (EMS). Included are: the training and licensing of EMS personnel, the setting of minimum standards for hospitals that want to operate trauma centers, and the designation of a State Advisory Council, which is to be composed of all volunteer, professional, and paraprofessional organizations involved in EMS in Pennsylvania.

A major point of contention in the legislation was the mandated licensing of ambulance services. Under the bill, ambulances must be licensed and will have to meet specific requirements for staffing, training, and equipment to get licenses. Legislators from rural areas were concerned that volunteer ambulance services would not be able to get licenses, and thus, no ambulance service would exist in those communities.

As amended by the House and approved by the Senate, an additional \$10 fine will be placed on each moving motor vehicle violation to help smaller communities EMS' facilities meet the requirements of the bill. In addition, provisional licenses may be issued for ambulances which do not meet specific



regulations' for a period of up to two years.

\*\*\***Malpractice Insurance for Midwives** -- Medical malpractice insurance was made available to certified nurse-midwives and birthing centers with the unanimous Senate passage of **SB 1074**, which was signed into **Act 78** by the governor on Nov. 6, 1985.

**Senate Bill 1074** permits the purchase of insurance under the state's guarantee association for medical malpractice. It also permits Blue Cross/Blue Shield to reimburse its clients for these services.

Using nurse-midwives or birthing centers is considered a cost effective alternative to traditional childbirth care.

The legislation was introduced because of the problems faced by nurse-midwives and birthing centers, two of which have closed in Pennsylvania as a result of non-renewal of their malpractice insurance.

\***Informed Consent** -- **Senate Bill 1152**, passed unanimously by the Senate, would amend the Act of Dec. 18, 1984 which requires doctors to obtain informed consent for the treatment of breast cancer.

The bill would amend the act by replacing the word cancer with "disease". The use of the word cancer, according to the bill's sponsors, presupposes a diagnosis of cancer, when the medical procedure being performed is one used to make a diagnosis on possible malignancy.

\***Hearing Impaired** -- The Senate unanimously approved a bill (**SB 259**) that would establish an Office for the Deaf and Hearing Impaired in the Department of Labor and Industry. The Democratic sponsored measure is now in the House Appropriations Committee.

The office is intended to promote, coordinate, and identify programs for the hearing impaired. It would also serve as an advocate for the rights and needs of people with hearing impairments.

After recommendation by the Advisory Council for the Deaf, the director of the office would be appointed by the Labor and Industry secretary. The bill would appropriate \$150,000 for first year start-up operations of the office.

\***Sulfites in Food** -- The Senate passed and sent to the House a bill (**SB 326**), 50-0, that would require restaurants in the commonwealth to identify prominently any sulfites used in the preparation or preservation of food on their menus.

Sulfite additives have been found to cause allergic reactions ranging from mild to life-threatening in some persons, and the purpose of this bill is to alert those persons who may suffer such a reaction.

Sulfites are frequently used by restaurants, particularly in salad bars.

Under **SB 326**, restaurants would only be liable for sulfite additives that they use in the preparation or preservation of food. Food purchased by the restaurant already containing sulfite additives would not be affected.

**Senate Bill 326** was unanimously passed by the Senate and was referred to the House and Welfare Committee in May, 1985.

A related bill, **HB 722**, which would have prohibited restaurants from using any sulfites to color or preserve foods, was originally passed and amended by the House in 1985.

However, the bill was gutted in the Senate Public Health and Welfare committee and used as a vehicle to convene a legislative task force to study the childcare needs of commonwealth employees and to organize a day care facility for commonwealth employees.

Specifically, the bill was to be the legislative authority to organize the day care center for commonwealth employees that recently started in the state Auditor General's office.

In its new form, **HB 722**, was referred to the Senate Appropriations Committee in March, 1986.

**\*Mental Health Procedures** -- Legislation (**SB 422**) to require open court procedures for persons convicted of a crime but who are committed to mental hospitals rather than prisons was passed by the Senate, 49-0, in Dec., 1985. The bill has been in the House Health and Welfare Committee since Dec., 1985.

This bill would require that open hearings be held when such a person is deemed treated and is being considered for release from a mental institution.

Persons could be subjected to court-ordered involuntary treatment of one year when they are diagnosed as mentally irresponsible when accused of murder, voluntary manslaughter, arson, aggravated assault, rape, or kidnapping.

**\*\*\*Drug Council** -- The Governor's Council on Drug and Alcohol was placed under the Department of Health in **HB 1685** which passed the Senate 49-0 and was signed by the governor into **Act 119** on Dec. 18, 1985.

The council was also renamed the Pennsylvania Advisory Council on Drug and Alcohol Abuse and made subject to sunset review and evaluation. The council is to provide a comprehensive health, education and rehabilitation program for the prevention of drug and alcohol abuse.

**\*\*\*County Health Grants** -- Legislation (**HB 1338**) to raise state per capita grants for county health departments' environmental health services from 75 cents ,to \$1.50 per person passed the Senate 49-0 and was signed into **Act 95** by the governor on Dec. 18, 1985. The increase is retroactive to July 1, 1985.

Environmental health services are included in the areas of air and noise pollution, restaurant and wholesale food inspection, rodent control and water and sewage inspection.

**\*Designer Drugs** -- The Senate unanimously approved a bill (**SB 1140**) that would make it a felony to create chemical compounds producing the effects of a controlled substance, unless an exemption has been granted under the federal Food, Drug, and Cosmetic Act.

The bill, which was reported out of the House Health and Welfare Committee, was on second consideration by the full House on June 26, 1986.

Proponents say this bill will tackle the problem of so called "designer drugs" which are chemically similar to controlled substances, or drugs that are either illegal or whose distribution is controlled. Phenethylamines, morphinans, ecogonines, and quinazolinones are example of chemical classes in which designer drugs are found.

Under the bill, anyone found guilty of illegally manufacturing, distributing, or possessing with the intent to distribute designer drugs could be imprisoned for up to 15 years and/or pay a fine of up to \$250,000.

**\*Pets in Nursing Homes** -- Dogs and cats could reside in state health care facilities if **SB 377**, approved unanimously by the Senate in March, 1985, becomes law. The bill was recommitted to the House Health and Welfare Committee on March, 11, 1986.

Under the bill (identical to last session's **SB 1172**), individual nursing homes and other health care facilities would make the ultimate decision on whether to board domesticated pets.

Rules and regulations for the boarding of pets would be set by the Department of Health secretary.

The intent is to provide long-term health care residents with the companionship of a pet and/or for use in the overall therapy of patients confined to nursing homes.

**V\*\*\*Heating Aid for the Poor** -- A Senate override of the governor's veto of a proposed \$11 million state appropriation for a heating aid program for low-income families (**SB 267**) was later rebuffed in the House where an override attempt fell eight short (128-66) of the necessary two-thirds vote.

The Senate override Feb. 25, 1985 (46-4), hailed by Democrats as a "victory for the humane and sensitive among us," was kept technically alive when the House Democratic leadership, after failing to secure an override, tabled the governor's veto.

However, prospects for an eventual override appear dim. The 66 Republican House members voting to sustain the governor's line item veto of the state aid seem committed to the view that the \$3 million in new federal funds left standing in **SB 267** were sufficient to meet the needs of low-income people.

Pennsylvania's federally-funded Low Income Heating Energy Assistance Program (LIHEAP) ran into financial difficulties in 1984-85 and the state Welfare Department, which administers the program, stopped taking applications on Jan. 4, 1985.

Even with the additional \$3 million appropriated from federal funds, the 1984-85 LIHEAP totaled about \$128.4, down about \$7.5 million from the 1983-84 LIHEAP funding of \$135.9 million. The combination of decreased federal funding, the more efficient operation of LIHEAP, and an increased number of program applicants caused the funding gap.

Early this session, Democrats in both the House and Senate introduced bills to supplement LIHEAP with state funding, saying it could be drawn from what was then estimated to be a \$200 million surplus in the 1984-85 general fund. (The surplus eventually topped \$300 million.)

The result was the adoption by a House-Senate conference committee of **SB 267** which contained an \$11 million state supplement for LIHEAP, which the governor then struck from the bill. Democrats asserted the lack of this state supplement meant 76,000 eligible households were unable to receive aid.

**\*Additional Board Member** -- **Senate Bill 1030**, passed unanimously by the Senate, would add a member to the Health Care Policy Board, increasing the membership to 14 and the quorum requirement from six to eight.

The board's responsibilities are to review rules and regulations in an advisory capacity to the state Health Department.

### **Urban Affairs and Housing**

**\*Gentrification** -- The Senate approved a bill (**SB 1182**), 46-3, that would allow property tax breaks for Philadelphia homeowners living in recently renovated neighborhoods. **Senate Bill 1182** would allow tax breaks to older residents who are victims of "gentrification," or the skyrocketing of property values resulting from the renovations of homes in the areas by individuals or developers.

Justification for the bill is that young professionals are moving into older neighborhoods forcing property values to skyrocket, up to 200 percent more than what they used to be.

As amended on the Senate floor, Philadelphia would first be required to hold public hearings in neighborhoods determined eligible for the real estate tax adjustment.

Under the bill, homeowners who have lived in designated neighborhoods for 10 or more years could retain their previous, lower property assessments, with adjustments for inflation.

Legislation approving a change in the state constitution's uniform tax requirement was passed in two previous sessions of the General Assembly. Voters approved the gentrification

proposal in a statewide referendum in Nov., 1984.

**Senate Bill 1182**, which is the enabling legislation for a gentrification tax break in Philadelphia, was recommitted to the House Urban Affairs Committee in spring, 1986.

**\*Blighted Property Development -- Senate Bill 780**, unanimously passed by the Senate, would allow redevelopment authorities to acquire blighted properties and develop them for commercial and industrial use. Currently, redevelopment authorities can only renovate blighted properties for residential use.

As amended on the Senate floor, the property must be vacant.

The bill, however, would reduce the amount of time that a property be vacant from two years to one year before it can be acquired by a redevelopment authority.

The bill was sent to the House State Government Committee on June 16, 1986.

**\*Regulate Timeshare Sales -- A bill (SB 820)** creating and regulating the real estate concept of timesharing passed the Senate 46-1 and has been in the House Professional Licensure Committee since Oct., 1985.

The bill, designed to protect the consumer from exploitation in real estate deals involving the sale of the use of property for certain blocks of time each year, would require sale information to be submitted to the State Real Estate Commission for approval.

Under **SB 820**, consumers would be able to cancel timeshare contract agreements within the first seven days.

**\*Capital Grants -- Senate Bill 1100**, unanimously passed by the Senate, would allow non-profit corporations to receive capital grants from the Department of Community Affairs to be used for the elimination of blighted areas. The bill was referred to the House Business and Commerce Committee in Jan., 1986.

Under the legislation, capital grants could be used by nonprofit corporations to rehabilitate single-family dwellings. The homes must be sold to families who need assistance to purchase a home.

Currently, only municipalities and redevelopment authorities are eligible for grants.

**\*\*\*Aid for Homeless -- A \$5.5 million program (HB 1353)** to aid the homeless was passed unanimously by the General Assembly and signed into **Act 57A** by the governor on Dec. 19, 1985.

Under the legislation, \$3.5 million in state money will be used for the renovation of vacant buildings and creation of about 400 low-rent, long-term, single-room occupancy housing units.

The single-room housing units will also have agreements with community health and social service agencies to provide care for mentally ill residents.

Another \$2 million will be used for the establishment of so called 'bridge housing', which is a short-term facility that will offer supportive services to the residents. These services will include health care, social services, education and job training to enable domestic violence victims, unemployed adults, substance abusers or other low-income individuals to become self sufficient.

Included in the 1986-87 General Fund Budget is \$7 million to help Pennsylvania's homeless become reintegrated in the community. The money is to be used for bridge housing, single room occupancy housing, residences for the chronically mentally ill homeless, and rent assistance. The 1986-87 budget also includes an additional \$3 million to be used for emergency shelters statewide.

## Game and Fisheries

**\*\*\*Game Law Changes** -- After years of negotiation between the state Game Commission and the General Assembly, a bill (**HB 2079**) making sweeping changes in the state hunting and trapping laws for the first time since 1937 was passed by both chambers.

**House Bill 2079** was signed by the governor into **Act 93** on July 8, 1986.

The bill, 181 pages long, contains many housekeeping measures sought by the Game Commission as well as major changes.

It does not affect hunting season dates

Highlights of the bill include:

- Vestment of complete authority to regulate hunting in the Game Commission. Efforts by municipalities to restrict or ban hunting are not enforceable.
- Requiring state Game commissioners to be confirmed by a two thirds majority vote and prohibiting commissioners from succeed themselves after an eight-year term.
- Increasing from \$300 to \$400 an acre the money paid for game land purchased by the commission.
- Prohibiting the placement of hazardous, radioactive or toxic waste facilities on state game lands.
- Increasing most penalties for violations of state game law. Failure to pay fines could result in imprisonment of up to 90 days. Installment payments of fines are permitted. For example, the maximum fine for killing an endangered species is increased from \$200 to \$2,500. Fines for illegally hunting elk or deer are doubled from \$400 to \$800.
- Prohibiting the use of lighted sights or scopes that project a beam on a target.
- Increasing the issuing agent's fee for most hunting and fur-taking licenses from 50 cents to 75 cents.
- Increasing the age to 17 for youth licenses without parental consent.
- Permitting the commission to bring suit for damage or destruction of state property, animal habitat and game.
- Making it illegal to carry a loaded firearm or bow after killing a big game animal, and making it an offense to lean a loaded gun against a vehicle.
- Requiring a minimum of 250 square inches of fluorescent orange material on clothing or a fluorescent orange cap.

The new law becomes effective July 1, 1987.

**\*\*\*Hunting License Fees Increased** -- Along with granting hunting license fee increases, **HB 585**, approved in the Senate 42-6 and signed by the governor into **Act 42** on July 3, 1985, gives the General Assembly the power to review and audit annual budget reports of the state Game Commission.

The required written reports are to include complete budgets for the current fiscal year and the upcoming fiscal year. Also, an audit of the Game Commission's budget for the concluding fiscal year is to be conducted by the Legislative Budget and Finance Committee.

Also included in the bill is an increase in the fees of most hunting licenses, several new categories of hunting licenses and a new senior citizen life-time hunting license.

The increased fees and license categories are expected to produce an additional \$8.4 million in annual revenues, in contrast to the Game Commission's original proposal to increase fees for an additional \$15 million a year.

Resident hunting license fees are increased from \$8.50 to \$12.50. A junior license, applicable between the ages of 12 and 16, costs \$5.50. Residents 65 or older can pay \$10.50 for an annual license or \$50.50 for a lifetime license. An identical scale of fees applies to licenses to hunt or trap

furbearing animals. Totally disabled resident war veterans will not be charged for hunting licenses.

Non-resident hunting licenses are increased from \$60.50 to \$80.50 A junior license costs \$40.50.

The new fees were effective Sept. 1, 1985.

## **Labor and Industry**

**\*\*\*Workmen's Compensation** -- The number of Workmen's Compensation referees will increase to 50 under **House Bill 1025** which was approved unanimously by the Senate and signed by the governor into **Act 9A** on July 1, 1985. The measure appropriates \$470,000 from the Workmen's Compensation Administration Fund to the Department of Labor and Industry to cover the cost of increasing the complement of referees to 50, an action Senate Democrats said was needed because of a massive backlog of claims cases in the department.

The bill also appropriates \$11.2 million from the Workmen's Compensation Administration Fund to the department to cover administrative expenses for 1985-86 incurred by the Pennsylvania Workmen's Compensation Act and the Pennsylvania Occupation Disease Act.

**\*\*\*Funds for Referees** -- Despite the passage of legislation in 1985 authorizing more Workman's Compensation Board referees (see above), the money set aside for the new positions was not spent by the administration and lapsed to the general fund at the end of the 1985-86 fiscal year.

The dearth of referees resulted in a backlog of compensation claims (as it did the year before) and prompted new legislation (**Senate Bill 1451**) authorizing more claims referees and clerical help. The bill passed the Senate on June 4, 1986, and cleared the House on June 30. It was signed into law July 2 as **Act 11A**.

**SB 1451** appropriates \$11.7 million for operations of the state Worker's Compensation Bureau and \$485,000 to hire more referees.

Under provisions of the bill, the number of referees is to be boosted from 39 to 55; the secretarial staff is to be increased to 110. Additional staff should shorten the time injured workers must wait to have their cases decided. Proponents of the bill say it has taken as long as two years to arbitrate appeals of claims filed by injured workers, although the average is between nine and 11 months. Referees arbitrate appeals of claims which are filed by employers or by the employer's insurance companies.

Earlier, the Legislative Budget and Finance Committee, the non-partisan arm of the legislature, had issued a report saying the bureau was slow to act, was lax in enforcement and had failed to expend large amounts of money allocated to it.

**\*Safety on Elevators** -- Legislation now before the House Labor Relations Committee would amend the Elevator Code to require safety devices on elevators.

As amended in committee, provisions of **Senate Bill 366** are limited to cities of the first class (Philadelphia). Automatic elevators would have to be equipped with telephones and audible emergency signals connected to a place where personnel could hear and respond to a call at any time.

If the bill becomes law, building owners would have 180 days to install and implement the emergency system.

This bill passed the Senate July 1, 1986.

**\*Immunity From Lawsuits** -- Some construction design professionals would be immune from lawsuits if **Senate Bill 1280** becomes law. The measure cleared the Senate on July 1, 1986, and now is before the House Judiciary Committee.

The bill provides that architects, professional engineers, landscape architects and land surveyors who are licensed by the commonwealth and who have provided proper specifications and preparation of design plans would not be liable for injuries sustained at project sites. This bill is intended to eliminate nuisance or frivolous lawsuits which often are brought against design professionals even when the cause of the action may be beyond the professional's control.

**\*Minimum Age Change** -- The House Labor Relations Committee has taken no action on **Senate Bill 165**, legislation passed by the Senate on April 9, 1985. The bill is an apparent effort to resolve a problem faced by newspapers: a shortage of carriers. It would reduce the minimum age of a newspaper carrier from 12 to 11. A bill similar to **SB 165** passed the Senate in the 1983-84 session but failed to clear the House.

**\*\*\*Old Law Updated** -- The 50-year-old Bedding and Upholstery Law has been updated to eliminate an unnecessary requirement as a result of **House Bill 242** being signed into law (**Act 73** of 1985).

This bill amends the law to eliminate the need for quarterly reports filed by licensees to be notarized. However, a penalty provision remains intact--falsification of a report is a third degree misdemeanor. Licensees are required to file reports to show the number of articles sold in Pennsylvania or shipped into the state for sale here.

**\*\*\*Legal Fees Covered** -- **House Bill 969** became **Act 75** of 1985 when signed into law on November 6. The bill amends a 1977 law that prohibits an employer from firing a person who loses time from his or her job due to service as a volunteer firefighter.

The 1977 law requires the employer to reinstate the worker to his former position and to pay him lost wages and benefits. **HB 969** directs the employer to pay the worker "any reasonable attorney fees" incurred in an action to recover lost wages and benefits.

## Transportation

**\*\*\*Turnpike Impasse Ends** -- A long and sometimes bitter battle over control of the Pennsylvania Turnpike Commission ended in September, 1985, after Senate and House Democrats and the governor agreed to a compromise plan that restructured the commission and signaled the go-ahead for a toll road extension plan that will cost more than \$4 billion.

The project, long sought by Democrats to boost the state's sagging economy, had been held hostage by the governor for nearly two years as he waged a futile fight to wrest control of the turnpike agency from the Democrats.

Language spelling out the Turnpike Commission reorganization plan was inserted into a conference committee report on **Senate Bill 441**, a measure which also listed new highway projects that proponents say will give Pennsylvania a toll road network second to none.

The bill, passed overwhelmingly by the Senate and House and signed by the governor on September 30 as **Act 61** of 1985, temporarily expands the commission to six members. One vacancy and a newly-created sixth position were filled by the governor without the need for Senate confirmation, giving each party three votes on the expanded panel.

Terms of the new commissioners will expire in June of 1987 at which time the panel will revert back to five members. Future gubernatorial appointments will be confirmed by a majority vote of the Senate, rather than a two-thirds vote, and terms of commissioners will be four years instead of the current 10 years.

Preliminary work already is under way on several of the proposed projects, including the missing 16-mile link in the Beaver Valley Expressway in western Pennsylvania.

High priority also has been given the 13-mile Greensburg Bypass and a second tunnel on the turnpike's Northeast Extension near Palmerton. The widening of the toll road in the Philadelphia area already is well under way. Two new interchanges also will be built in northeastern Pennsylvania and another is planned near the New Cumberland Army Depot.

If all phases of the extension plan are undertaken, it is expected the work will create more than 20,000 jobs.

By mid-summer of 1986, the Turnpike Commission had completed the sale of some \$800 million in bonds, with the proceeds to be used to retire existing debt and to help finance first-phase expansion projects expected to cost about \$650 million.

Since additional revenue will be needed to retire the bonds, the commission will increase tolls 30 percent in 1987 (from about 2.4 cents a mile to 3.1 cents) and another 30 percent in 1991.

**\*'Buckle Up' for Safety** -- At least half the states in the nation have implemented laws requiring motorists to use seat belts. The future of a proposed Pennsylvania law is shaky.

In October of 1985, the state Senate passed **Senate Bill 483**-- legislation requiring the driver and front seat passenger of a motor vehicle to "buckle up".

The bill that cleared the Senate requires that safety seat belts be "properly adjusted and fastened" in the front seat of most cars, vans, light trucks and motor homes while the vehicle is moving in traffic.

Failure to comply with the law would subject the violator to a summary offense conviction and a \$20 fine.

However, action taken in the House, where a final vote is pending, would soften the penalty provision of the legislation by making non-compliance a secondary offense and reduces the fine from \$20 to \$5. Supporters of this move in the House claim legislation should focus on seat belt "education" rather than the threat of a fine.

House leaders say the amended version of **SB 483** will be one of the first items considered by the House when the legislature reconvenes in September.

Senate action on the bill was stirred by a U. S. Department of Transportation ruling that will require automakers to equip motor vehicles with air bags unless two-thirds of the states pass legislation requiring safety belt usage. At least 26 states and the District of Columbia now have some form of seat belt laws on the books.

Proponents of the seat belt law claim it will save hundreds of lives each year; opponents say drivers should have "freedom of choice", the same argument advanced by those pushing for repeal of the state's "helmet law" for motorcyclists.

The Senate version of **SB 483** would exempt from the seat belt law drivers and occupants of motor vehicles manufactured before July 1, 1966 (when cars were not equipped at the factory with seat belts), drivers and occupants of vehicles not required to be equipped with seat belts under federal law, persons who cannot wear the belts because of physical or medical reasons, and rural letter carriers operating passenger automobiles.

The bill, as passed by the Senate, also would require the state Department of Transportation to initiate an educational program on implementation of the mandatory seat belt law and establishes a 90-day period after final passage during which law enforcement authorities would issue warnings to violators, rather than citing them.

Mandatory seat belt regulations were amended into a Senate bill which increases from \$15 to \$40 the fine imposed for unauthorized parking in spaces reserved for handicapped persons.



The House version deletes this provision.

\*\*\***Seizure of Licenses** -- Legislation signed into law June 19, 1985, widens the authority of the state Department of Transportation to seize licenses and registration plates when they have been suspended. **Senate Bill 36** became **Act 20** of 1985 when signed by the governor. House amendments to the measure, concurred in by the Senate, define the term "bus", establish penalties for operators of buses or motor carrier vehicles that are improperly equipped and authorize qualified commonwealth employees to participate with state police in vehicle inspection programs. Another House amendment provides for the impoundment of vehicles for non-payment of fines.

\*\*\***Transportation Projects** -- Legislation (**Senate Bill 825**) that clears the way for private and public funds to be used to finance highway improvements was signed into law July 9, 1985, as **Act 47**.

Officially known as the Transportation Partnership Act, the measure permits municipalities and/or municipal authorities to establish transportation development districts. A House amendment excluded Allegheny County, allegedly because of concern that officials in that county might "use" the bill to impose a transit tax to aid its financially-troubled Port Authority.

**SB 825** authorizes a municipality to levy a tax to help fund a transportation facility or service.

\*\*\***Partnership Act Expanded** -- When the Transportation Partnership Act became law in 1985, its provisions excluded second class counties (see above).

That exclusion was corrected when the General Assembly passed **House Bill 1812** which clears the way for Allegheny County to take advantage of provisions of the Partnership Act. The bill also contains other amendments to the act, including:

- Only new transportation projects are appropriate for a transportation district (routine maintenance or repair of existing facilities do not qualify).
- Establishing a procedure for property owners to protest an assessment.
- A strengthening of the planning process involved in setting up a transportation district.

**HB 1812** cleared the House on April 15, 1986. Senate passage followed on June 25 and the bill was signed into law July 2 as **Act 75**.

\*\*\***Bargaining 'Break'** -- **House Bill 1876**, signed into law July 2 (**Act 76** of 1986), is expected to improve the contract bargaining position of Allegheny County's Port Authority Transit (PAT).

The bill, 'an amendment to the Second Class County Port Authority Act, calls for changes in certain labor relations provisions in the collective bargaining process, establishes a citizens' advisory committee and sets up performance audit requirements.

Changes had been sought by PAT management which claimed the original law gave its union excessive bargaining rights. **HB 1876** is viewed as bringing the law covering labor-management relations at PAT into closer conformity with the state's Public Employee Relations Act (**Act 195**).

Provisions of **HB 1876** require that the consent of labor and management is needed in order for contract talks to move into the binding arbitration stage. Previously, PAT unions had the unilateral power to force management into binding arbitration. In addition, the bill requires collective bargaining to begin at least 100 days before expiration of a contract and prohibits a strike until 30 days after the old contract expires.

PAT's board is to be reduced from 12 members to nine by Jan. 1, 1988, and the board is required under the new law to adopt an annual balanced budget.

\*\*\***Vehicle Code Changes** -- Unrelated sections of the commonwealth's Motor Vehicle Code are

amended by **Senate Bill 239**.

A conference committee report on the measure was adopted by the House and Senate and the bill was signed into law July 9, 1986, as **Act 96**.

When this bill passed the Senate in February, 1986, it provided only for school buses to stop at all railroad crossings except those controlled by a police officer or flagman. This provision remains in the bill.

The conference report also contains a provision requiring the state's driver's license examination to include at least one question related to the effects of alcohol and drug use on highway safety. The bill also amends the Vehicle Code to authorize PennDOT to issue an identification card to non-drivers.

The card will have the same tamper-proof features as the new driver's license. Other provisions of **SB 239** are:

--Maximum terms of imprisonment are reduced from one year to six months for offenses such as driving without a valid license, driving while a license is suspended or revoked, racing on highways, fleeing or attempting to elude a police officer, and giving false information on an accident report.

--Approving movement during the course of manufacture of a truck tractor and one trailer which exceeds the maximum vehicle length and does not exceed the maximum 102 inches in width.

Previous law prohibited such combination~ if their length exceeded 28~ feet.

\*\*\***Loophole Closed** -- Additional amendments to the Vehicle Code are contained in **Senate Bill 670**. This conference committee report was adopted by the Senate and House and became **Act 90** on July 8, 1986.

The bill provides that a vehicle not registered in the commonwealth cannot be operated on the state's highways unless it is exempt from registration. This provision closed a loophole in the code.

**SB 670** also redefines "gross weight" of a vehicle to exclude the weight of the driver; reduces the penalty for operating an unregistered motor carrier vehicle (from double the registration fee to \$50 if the vehicle is registered within 60 days of the offense), and exempts operators of three-wheeled motorcycles with enclosed cabs from having to wear protective headgear.

The original provision of the bill remains. It deals with the use of portable scales to weigh vehicles and allows for the adjustment of a load if a vehicle exceeds the maximum axle weight but is within the maximum allowable gross weight plus a 3 percent tolerance for scale error.

\*\*\***Bridge, Road Projects** -- The state's second billion-dollar bridge replacement and rehabilitation program and the construction or restoration of hundreds of miles of highways are the focal points of two bills--**House Bill 385** and **House Bill 384**--signed into law on July 9, 1986.

**HB 385** provides for spending \$1.6 billion to rebuild or replace more than 3,500 bridges. These projects will be on the launching pad when the first bridge program nears completion in 1988. **HB 384** supplements the Capital Budget Act of 1984-85 and lists new highway projects that increase the spending plan to nearly \$824 million.

The two programs, which are expected to create thousands of jobs, will be financed from current revenues, bonds, federal subsidies and revenue from the axle tax on trucks. The axle tax, imposed three years ago, was threatened by a lower court decision but was ruled legal in May, 1986, by the state Supreme Court. The high court's decision preserved the bridge program by assuring the state would not have to refund some \$300 million that already had been collected from trucking companies.

Truck owners pay a \$36 per axle tax, or about \$180 per vehicle.

**HB 384** authorizes PennDOT to undertake nearly 300 highway projects in the years ahead. Costs of

projects range from as little as \$25,000 to millions of dollars for major restoration or relocation jobs.

\*\*\***Special License Plates** -- Veterans who received the Purple- Heart are eligible to apply for a special vehicle registration plate as a result of **House Bill 401** being signed into law (**Act 65** of 1986). This measure also provides for a severely disabled veteran who qualifies for the plate to receive a special parking placard that will enable him to use spaces reserved for handicapped persons.

Special registration plates also are available to veterans who were prisoners of war or who hold the Congressional Medal of Honor. **HB 401** amends the Vehicle Code to limit the use of these plates, along with the Purple Heart plate, so that only one automobile or one other vehicle with a gross weight of not more than 9,000 pounds can be registered.

\*\*\***Plates for Handicapped** -- Regulations governing the issuance of special license plates and parking placards for use by handicapped persons are tightened as the result of **Senate Bill 336** being signed into law. The measure became **Act 51** on May 9, 1986.

A key provision of **SB 366** is that persons applying for the special plate or placard must present a statement certified by a physician that attests to the applicant's disability.

However, the House amended the bill to authorize the Department of Transportation to accept a statement from a police officer that an applicant is "handicapped" if he or she does not have full use of a leg, or both legs, or is blind.

House amendments also spell out new regulations for plates issued to disabled veterans. A "severely disabled veteran" whose service-connected disability is certified at 100 percent will be eligible for the special plate or placard that will bear the international symbol for "handicapped access". Holders will be entitled to use parking spaces reserved for the handicapped.

However, holders of "Disabled Veteran" license plates are no longer entitled to use "handicapped" parking spaces.

Another special license plate will be available to Pennsylvania drivers if **Senate Bill 1276** becomes law. An amendment to the bill would authorize PennDOT to issue a license plate to persons with impaired hearing. Original language of the bill was aimed at bringing the state into conformity with federal law with respect to axle weight and size of truck combinations.

This provision remains in the bill. The measure remains on the House calendar.

\*\*\***Extension Okayed** -- Concurrence by the House in Senate amendments cleared the way for **House Bill 488** to be signed into law. The bill extends for six more years a section of the Vehicle Code requiring an annual permit for construction trucks that exceed gross weight and axle weight limits.

The special permit section of the Vehicle Code was due to expire May 31, 1986. The bill continues a provision of the code that limits issuance of permits only to trucks registered with the state five years ago. For 1986, there are 157 permits in use.

The bill was signed into law May 9 as **Act 52** of 1986.

\*\*\***Commission Continued** -- The state Transportation Commission, due to "sunset" this year, is re-established by **House Bill 2081**, signed into law April 30, 1986, as **Act 37**. This bill provides for nominees to the panel to be confirmed by a majority vote of the Senate, rather than a two-thirds vote.

\*\*\***Speed Timing Devices** -- Local police departments once again can use a device known as the Excessive Speed Preventer to catch errant motorists. The okay is included in **House Bill 1073** which became **Act 24** of 1986 when signed by the governor March 27.

Use of the ESP was banned after the state Supreme Court ruled it was an electronic device and not electrical as classified by PennDOT. Only the state police, the court ruled, can use an electronic device--such as radar--to enforce speed laws.

A conference committee report, adopted by the Senate and House, provides that a driver can be cited only if his vehicle is traveling six or more miles per hour in excess of the posted speed limit when ESP is being used.

There are other provisions in the report unrelated to the speed timing device. One provides for drivers or owners of vehicles to be held responsible if a passenger throws trash or other waste items from a car and if the actual offender cannot be identified by police. Violators could be fined up to \$300 or be sentenced to pick up roadside trash.

**HB 1073** also contains a provision that prevents insurance firms from invalidating coverage on a rented vehicle solely because the driver was determined to be under the influence of drugs or alcohol at the time of an accident for which benefits are sought.

\*\*\***Tolls for Bridges** -- A House bill (**HB 334**) became the vehicle for legislation that permits the Delaware River Joint Toll Bridge Commission to impose tolls on new or existing bridges. Similar action is required of the New Jersey Legislature. This bill originally amended the Motor Vehicle Code to require school buses to stop at all railroad crossings. The provision was deleted from the bill. The bill became **Act 41** when signed by the governor on July 3, 1985.

\*\*\***Highway Law Amended** -- The state Department of Transportation is authorized by **House Bill 626** (**Act 43** of 1985) to enter into agreements with municipalities to alter the responsibilities of both parties with respect to highway construction, maintenance and improvements. The bill was signed into law July 3, 1985.

\*\*\***Inspection Fee Boosted** -- Motor vehicle owners in three regions of Pennsylvania are paying a higher emission inspection fee as a result of legislation (**House Bill 94**) being signed into law on July 11, 1985.

The measure (now **Act 52**) authorizes service station operators who participate in the program to boost their inspection fee from \$5 to \$8. The increase was amended into **HB 94** by the Senate in response to complaints by dealers that they were losing money on the program.

Only motorists whose vehicles are registered in a five-county Philadelphia area, some western Pennsylvania counties and the Allentown area are required to participate in the annual inspection program.

**HB 94** also changes the Motor Code definition of "emergency vehicle" to include that of a river rescue assistant commander and further amends the code to regulate the use of speed timing devices. The latter provision stipulates that a device cannot be used to time the speed of a vehicle within 500 feet of a sign indicating that a motorist is entering a reduced speed zone.

\*\*\***Interstate Funding** -- **House Bill 191** was gutted in the Senate and became the vehicle for legislation authorizing the commonwealth to borrow up to \$29.9 million to finance the federal government's share of five interstate highway system projects.

The amount borrowed will be retired upon release of the federal funds. **HB 191** came to the Senate as legislation defining the term "articulated bus". This provision was deleted from the measure.

The bill became **Act 54** on July 11, 1985.

\*\***Flashing Lights Required** -- A Senate bill (**SB 155**) that was amended extensively by the House now awaits action by the Senate Committee on Rules and Executive Nominations.

When the Senate passed the bill on June 28, 1985, it amended the Vehicle Code to require a school bus driver to use the vehicle's amber and red lights when children being transported to summer camp or Bible school are boarding or leaving the bus. This provision remains in the House-amended measure.

Numerous amendments were added by the House before its passage on June 18, 1986. These include:

--A provision that persons qualified to operate school buses are authorized to drive church-owned buses.

--A requirement that driver's license tests include at least one question relating to a person's ability to understand the effects of drug and alcohol use on highway safety (the same provision is a part of **Senate Bill 239** already signed into law).

--Authorizing a limited driver's license for a person whose license is suspended but must drive a car or other vehicle to get to or from work or whose job requires him to drive. Cost of a limited license would be \$50 if a suspension is for 30 days or less and \$100 for a suspension of more than 30 days. In certain instances, a person would not qualify for the limited license and penalties are provided if a person drives in violation of restrictions placed on the licensee.

--A requirement that school buses must stop before crossing a railroad grade crossing.

--A provision that noise control violations can be proven by the testimony of two police officers who were at the scene of the alleged violation.

--Changes in the oil franchise tax law to permit tax collections based on average price instead of price per gallon.

\*\*\***All-Terrain Vehicles** -- Legislation (**House Bill 348**) requiring the registration of all-terrain vehicles and regulating their use became **Act 56** on July 11, 1985. The measure also exempts certain multipurpose agriculture vehicles from registration.

\***Safety Measures for Trucks** -- A bill establishing operating and safety requirements for so-called frozen dessert trucks cleared the Senate in October of 1985. The bill (**SB 30**) would require vendors to obtain school board approval to sell products within 500 feet of elementary and junior high schools. It also would require owners of the trucks to equip them with flashing lights and a "stop" signal arm that would be activated when the vehicle is stopped on a road or highway for the sale of products.

**SB 30** is in the House Transportation Committee.

\*\*\***Receipt for License** -- **House Bill 107** was signed into law Nov. 6, 1985, as **Act 72**. It requires the state Department of Transportation to issue a receipt to a person who surrenders a driver's license following a suspension or revocation. The receipt will serve as proof of the date the surrendered license was received and should eliminate controversy over the expiration date of the suspension or revocation period.

\***Fine Set for Violations** -- **Senate Bill 816**, passed by the Senate in October, 1985, provides for a person to be charged with a summary offense for altering, defacing, removing or interfering with the operation of a traffic control device, railroad sign or signal. If convicted, the defendant would be fined \$50 and ordered to make restitution. The bill remains in the House Transportation Committee.

\*\*\***Registration Fees Reduced** -- An estimated 140,000 more senior citizens will receive a break on the cost of their motor vehicle registration fee as of April 1, 1986. **House Bill 204**, which became **Act 86** on December 13, 1985, raises the income limit from \$9,000 to \$15,000, qualifying additional senior citizens for a \$10 processing fee in lieu of the \$24 annual registration cost.

The additional cost to the state, estimated to be \$2.3 million a year, will be paid from the lottery fund.

\***Abandoned Vehicles** -- The House Transportation Committee has not acted on legislation (**SB 335**) that would authorize parking authorities to sell abandoned vehicles at auction.

The measure, passed by the Senate in November, 1985, provides for a vehicle to be auctioned if it has been unclaimed by its owner for 90 days and if the owner does not respond to a parking authority notification

within 30 days.

Should the car be auctioned, the parking authority would hold the net proceeds for the owner for a 60-day period and, if unclaimed, forward the money to the state Department of Transportation for deposit in the Motor License Fund.

**\*Bill Bans TV in Cars -- Senate Bill 1124** provides for a summary offense if an operable television set is transported in the front seat of a car or other motor vehicle. The bill passed the Senate in November, 1985, and awaits action by the House. In the Senate, Democrats tried unsuccessfully to amend the language of the bill from "operable" to "operating." A violation could cost a motorist up to \$100.

## Law and Justice

**\*\*Liquor Code Reform** -- As the 169th session of the General Assembly neared a close, Pennsylvania's State Store system continued in operation, despite continued efforts by the administration to dismantle the Liquor Control Board and turn over the sale of liquor and wine to the private sector.

Because no final Sunset action was taken on the LCB prior to the end of 1985, the agency's life was extended for another year.

Sentiment in the Republican-controlled Senate and the Democratic-controlled House appears to favor continued life for the LCB and state control over the sale of wine and spirits.

Both the Senate and House wrestled with the LCB issue for most of 1985.

In September, the Senate passed by a wide margin (44-4) the first of what was intended to be a series of bills providing for sweeping changes in the Liquor Code. Key element in the reform bill (**Senate Bill 964**) called for transferring the LCB's enforcement authority to the Office of the Attorney General.

Action by the full Senate on **SB 964** came just a month after the Law and Justice Committee, upon completing its Sunset review of the LCB, recommended that the state stores be retained.

House displeasure with the bill was evident from the outset and the measure later was amended in that chamber, with the Senate's enforcement transfer provision deleted. In its place, the House called for beefing up the LCB's enforcement arm.

While there was no further action on **SB 964**, the Senate moved again in mid-November of 1985 to push for transfer of the LCB's enforcement authority to the Attorney General. The maneuver was achieved by amending a House-passed bill (**HB 1112**) that would have provided for expanded sales by limited wineries.

In fact, every provision of SB 964 was inserted into the House legislation. The amended measure passed the Senate by a 47-1 margin.

No further action has been taken on either bill.

**\*\*\*Card Games Shut Down** -- Liquor licensees were dismayed and opponents of gambling were delighted when the legislature adopted a conference committee report on **Senate Bill 129** repealing gambling features of a 1984 law.

**SB 129** became **Act 1** of 1985 when signed by the governor on Feb. 28. Its provisions spelled doom for card "tournaments" that had become popular in bars, taverns and clubs across the state.

Such "entertainment" had been authorized by **Senate Bill 730 (Act 54** of 1984). That law cleared the way for licensees to stage contests such as dart ball, billiards and cards without having to obtain a special license.

It wasn't long before blackjack tables were debuting in scores of establishments, prompting anti-gambling interests to call for repeal of a law they contended was a legislative oversight in the first place.

Senate reaction was to pass **Senate Bill 214** which called for repeal of **Act 54**. The move was opposed by Democrats who contended that full repeal would "punish" working class people who enjoy playing darts and billiards while authorities "wink" at golf and tennis tournaments (where liquor is served and cash prizes are awarded) at "elitist" country clubs.

**SB 214** remained in the House Liquor Control Committee while the House aimed at a partial repeal of gaming activity in the form of amendments to another measure--**Senate Bill 129**. When Senate Republicans balked at adopting the House-amended measure, the bill went to a conference committee whose report eventually was adopted by both chambers.

The conference report included the original language of **SB 129**--a proposal to permit liquor licensees to serve alcoholic beverages on St. Patrick's Day if the date falls on a Sunday, as it did in 1985.

**\*"Games of Skill" Okayed** -- With **Act 54** of 1984 repealed, the Senate moved in June of 1985 to assuage the feelings of bar and tavern owners by passing legislation (**Senate Bill 770**) that would permit "games of skill" and the award of money or trophies as prizes.

However, the bill specifically prohibits cards and dice games and video poker devices. The measure approves of contests such as darts, billiards, bowling, shuffleboard and rings. Also banned are contests where the consumption of alcoholic beverages of any "game" involving lewd or immoral events would be the primary object.

The bill was amended in the House Liquor Control Committee to permit licensees to offer "games of chance" such as punchboards and fishbowl tickets, and to provide for a local referendum on such games. The bill has been re-referred to the House Appropriations Committee.

**\*\*\*Special Occasion Permits** -- **Senate Bill 128**, signed into law July 3, 1985, as **Act 36**, permits non-profit corporations operating museums or performing arts theaters in third class cities to obtain permits for the sale of liquor or brewed beverages. The measure limits the period during which the permit is valid to 10 days in August.

**\*Liquor Code Change** -- The House Rules Committee continues to hold **Senate Bill 321**, legislation intended to remove sexually biased terms from a section of the Liquor Code so that it will conform to equal rights provisions of the state Constitution. The Senate passed this bill April 10, 1985.

**\*\*New Life for Board** -- Sunset legislation for the state's Board of Probation and Parole is incorporated in **House Bill 447** as the result of Senate amendments. (The Senate previously had passed a bill--**Senate Bill 1165** in December of 1985--reestablishing the board for another 10 years. That bill had been awaiting action in the House.)

When it left the House on June 24, 1985, **HB 447** contained language that would permit the victim of ,a crime for which a person had been jailed, or his immediate family if the victim died as the result of the crime, to testify at a hearing concerning the prisoner's release. Notice of the victim's right to testify (or the family's right to testify) would have to be provided by a district attorney at the time of sentencing.

Other Senate amendments, which await House concurrence, provide for confidentiality of records, and add various functions to the Parole Board, including regulation of Citizen Advisory Committees and the purchase of community services for parolees.

There are fiscal considerations in the bill. For example, higher costs are seen increasing the

commonwealth's reimbursement to counties from the current level of 50 percent of "increased personnel costs" to 75 percent of salary costs incurred by a county to administer additional services and programs.

**\*\*Clinics and Drinking** -- Legislation cracking down on underage drinkers awaits concurrence by the House in an amendment dealing with an unrelated topic--abortion clinics.

**House Bill 843** was aimed primarily at underage youngsters arrested and charged with a liquor-related offense. The bill provides for fines for a variety of offenses--misrepresenting one's age, or purchasing, consuming or transporting liquor or malt or brewed beverages. However, the measure also calls for a suspension of driving privileges for 90 days for a first offense.

A second offense draws a one-year suspension and there is a two year suspension for a third offense.

Language in the bill mandates the suspension penalty whether or not the underage offender is operating a vehicle at the time of arrest.

Senate action on **HB 843** came less than two weeks after the U.S. Supreme Court struck down major sections of the state's Abortion Control Act. The Senate used **HB 843** as a vehicle to require new, expanding or relocating abortion clinics to obtain a "certificate of need" from the Department of Health. Proponents of the amendment say it will subject abortion clinics to the same state administrative process that hospitals must follow to open or expand facilities.

The House passed this bill on Oct. 10, 1985; the Senate amended the measure and passed it on June 24, 1986.

**\*\*\*Local Option** -- A privately-owned golf club located in a "dry" community can obtain a club liquor license through the local option route as the result of **House Bill 772** being signed into law. The measure became **Act 44** of 1986 on May 2.

Under provisions of the bill, voters of a municipality may determine if a private club is granted a license for the sale of wine and spirits. The local option route could be utilized only once every four years.

**\*\*\*License Exchange** -- **House Bill 1549**, signed into law April 17, 1986, as **Act 29**, adds a new section to the Liquor Code to authorize an exchange of liquor licenses under certain conditions.

The bill provides for owners of hotels whose properties were destroyed or severely damaged by a natural disaster in 1985 to exchange the establishment's liquor license for a restaurant license. The exchange hinges on the Liquor Control Board determining that a property owner cannot continue to comply with provisions of the code relative to hotel guestrooms, bathrooms, etc., because of damage resulting from one of 1985's natural disasters.

The bill was amended in the Senate to provide that a flood or tornado which destroyed or damaged the property had to result in a presidential declaration of an emergency or natural disaster.

**\*\*Crime Reports** -- House concurrence in Senate amendments will clear the way for **House Bill 1337** to be signed into law. The measure would be known as the Ethnic Intimidation Statistics Collection Act. It would provide for the state police to collect, but not analyze, information on crimes and incidents related to the race, color, religion or national origin of individuals or groups. Such information would be forwarded monthly to the state police by all local law enforcement agencies and the state fire marshal. The data, in turn, would be made available to any agency required to furnish such information in carrying out the duties imposed on it by law.

The House passed this bill in November, 1985; Senate approval, with amendments, came on June 30, 1986.

**\*\*\*Ethnic Tension Situation** -- **House Bill 1553 (Act 125** of 1986) requires the state police to include in



the agency's training program methods of responding to complaints of ethnic intimidation. The bill also requires training to combat institutional vandalism--vandalism to churches, schools, cemeteries, etc. According to the state police, such training already is offered and the bill now assures it will continue.

## **Banking and Insurance**

\*\*\***Interstate Banking** -- Legislation long sought by the banking industry became a reality in June of 1986 when the General Assembly passed and the governor signed into law **Senate Bill 1075**--the interstate banking bill. The measure became **Act 69** of 1986.

Proponents of the legislation said it will be good for the state's economy and will keep the state competitive in a so called regional banking network.

Effective 60 days after the June 25 signing by the governor, the measure allows interstate banking in a region comprising Maryland, Ohio, Kentucky, Virginia, West Virginia, New Jersey, Delaware and the District of Columbia. Within a week after the bill was signed, one Pittsburgh bank holding company announced it had acquired the largest banking company in Kentucky in a \$700 million acquisition. The move came several weeks before Kentucky became a part of the reciprocal banking network. New Jersey and Ohio also have similar laws.

Maryland is expected to have a reciprocal banking law on the books next year, followed by West Virginia in 1988. The District of Columbia, Virginia and Delaware have no such laws on the books at the present time and are off limits to Pennsylvania banks looking for acquisitions.

House amendments to **SB 1075** added consumer protection provisions and-also charge the Department of Banking with reviewing the credit practices and policies of each Pennsylvania bank holding company involved in a proposed transaction.

The phase-in period for regional banking expires on March 4, 1990. After that date, the state will be open for interstate banking with any state having reciprocal legislation.

Meanwhile, the House is expected to take action before the end of the two-year legislative session on two bills now on its calendar. **Senate Bills 1389 and 1390** (passed by the Senate May 6, 1986) will permit savings banks and savings associations to participate in regional interstate banking.

\*\*\***The Unisex Squabble** -- A bitter battle that raged for months in the General Assembly ended quietly in mid-April of 1986 when the Senate and House voted overwhelmingly to override Gov. Thornburgh's veto of **House Bill 452**--legislation permitting the continued use of gender-based rates for automobile insurance.

Had the veto been sustained, insurance premiums--the industry said--would have risen dramatically for women in the 16 to 24 age range and decreased for men in the same age group. with the override vote, the bill became **Act 27** of 1986 without the governor's signature.

Even after the override, supporters of unisex insurance vowed to continue the battle to force insurance companies to base policy premiums on factors other than one's sex.

The squabble began in 1984 when the state Supreme Court upheld a state Insurance Department ruling that gender-based rates were illegal. The ruling struck at the heart of insurance company claims that young male drivers should pay higher premiums because they are involved in more accidents than young female drivers.

A unisex system, the industry said, would see young female drivers paying increased premiums--perhaps as much as 33 percent higher.

\*\*\***Admitted Assets** -- When the battle over the unisex insurance issue ended in April, the door was opened for action on **Senate Bill 745**, a measure passed by the Senate in September, 1985, as part of a three-bill package permitting gender-based rates.

In October of 1985, the Senate passed **SB 1037**, legislation authorizing insurance companies to include relatively inexpensive computers and other data processing equipment as "admitted" assets for tax and rate purposes. This provision remained in **SB 1037** when the House amended it to include language calling for an 18-month delay in the implementation of unisex rates.

After the unisex rate battle became a moot issue, the House gutted **SB 745** and amended it with the original language from **SB 1087**. **Senate Bill 745** later cleared the House and Senate and became **Act 67** on June 17, 1986. It reduces from \$100,000 to \$10,000 the cost of equipment an insurer can list as an admitted asset. The \$100,000 threshold, supporters of the bill said, was unrealistic in view of declining equipment prices in recent years.

\*\*\***Insurance Reforms** -- Wider investment opportunities for insurance companies, mandated alcohol abuse coverage and authorization for a legislative study of automobile insurance rates are included in legislation (**Senate Bill 935**) approved by the General Assembly and signed by the governor. The measure became **Act 64** on June 11, 1986.

Expanding the investment opportunities of insurance companies will, supporters of the bill say, help Pennsylvania firms remain competitive with those in other states. Under provisions of the new law, insurance companies can invest in private placement accounts and participate in loans to corporations.

Another provision of the bill requires health insurers to pay for the treatment of alcoholism. Such treatment would include inpatient detoxification and out-patient alcohol services.

A \$125,000 appropriation is approved to finance studies of automobile insurance rates by a nine-member task force. A final report to the General Assembly is due by April 1, 1987.

\*\*\***Credit Card Interest** -- **House Bill 18 (Act 2 of 1985)** continues the interest rate on credit card and charge account balances at 18 percent.

When the interest rate was increased from 15 percent to 18 percent three years ago (the provision was due to sunset on March 25, 1985), banks and others offering consumer credit cited the high prime rate as the primary reason for seeking relief.

The Senate Democratic leadership, opposed to extending the interest cap for three more years, pointed out that the prime rate had been halved since 1982. One amendment pushed by Democrats sought to return the interest rate to 15 percent; a second amendment proposed a "floating" interest figure tied to an economic index. Both amendments failed. The bill was signed into law March 1, 1985.

\***Health Providers** -- Psychologists could become participating health providers if **Senate Bill 598** becomes law. The measure currently is on the House calendar.

Under provisions of the bill, a psychologist will be able to bill an insurer such as Blue Shield for services rendered to a patient.

\*\*\***Payoff Notification** -- **House Bill 637 (Act 53 of 1986)** requires banks to notify mortgagors when a mortgage has been paid in full. The bill also provides that any money remaining in the escrow fund for the payment of taxes and insurance must be returned to the mortgagor within 30 days.

\*\*\***Insurance Cancellations** -- **Senate Bill 1391** is aimed at heading off complaints about liability insurance policy cancellations and premium increases. The bill was signed into law July 3, 1986, as **Act 86**.

The law now provides for notice requirements and limitations on the cancellation, non-renewal or increases in premiums for policies. Furthermore, midterm cancellations would be prohibited except for eight circumstances. These would include such factors as fraud by the insured party, failure to pay a premium or a request by the insured party for cancellation. Even then a 60-day notice would be required.

If a company decided not to renew a policy, it would have to provide the insured party 60 days' notice. A similar notice is required for a premium increase.

\*\*\***Coverage Reduced** -- House concurrence in Senate amendments paved the way for **House Bill 2023** to be signed into law May 9, 1986, as **Act 56**.

This bill reduces the amount of liability insurance coverage required of operators of amusement rides. The minimum coverage is reduced from a level of \$300,000 per occurrence and \$1,000,000 in the aggregate to a range of \$100,000 to \$250,000 per occurrence and \$300,000 to \$500,000 in the aggregate, depending on the classification of the ride or attraction.

\***Bank Card Fraud** -- **Senate Bill 840**, passed by the Senate in April, 1986, provides for a range of penalties for fraudulent or unauthorized use of bank cards in automatic teller machines. The bill becomes law, persons convicted of using bank cards that have been stolen, forged or obtained through fraudulent means would be fined and/or imprisoned. The bill is in the House Judiciary Committee.

\*\*\***Banking Code Amended** -- **House Bill 2180** became **Act 119** of 1986 when signed by the governor on July 10. It allows a savings association to convert to a savings bank. An association whose deposits were insured by the Pennsylvania Savings Association Corp. prior to conversion can maintain all existing branches in operation when the application for conversion is made.

\***Pensions for Directors** -- Insurance companies would be authorized to grant pensions to their directors if **Senate Bill 937** becomes law. Passed by the Senate on June 27, 1985, and by the House on April 9, 1986, the measure now awaits action by the Senate on House amendments. Present law prohibits an insurance company from granting a pension to a director who is not an employee or officer.

\***Investment Protection** -- Failures of savings and loan associations in Ohio and Maryland prompted action in the General Assembly to protect Pennsylvanians who have investments in S&L's.

**Senate Bill 1083** still awaits action by the House Business and Commerce Committee. It would require state-chartered savings and loan associations with assets of less than \$5 million to insure with the Federal Savings and Loan Insurance Association or a private insurer.

If the bill is passed by the House and signed into law, its provisions would be effective immediately. After the effective date, newly-created S&L's could insure only with the FSLIC. There are 67 state-chartered S&L's in Pennsylvania; of these, 58 have assets of less than \$5 million.

\*\*\***'Cease and Desist' Order** -- **Senate Bill 1040**, signed into law on June 25, 1986, as **Act 68**, authorizes the Pennsylvania Securities Commission to issue "cease and desist" orders against persons who violate the Pennsylvania Securities Act of 1972.

The bill responds in part to recommendations made in the 1983 Sunset performance audit of the PSC. It is believed that the wider authority granted the PSC will be a deterrent to would-be violators by preventing sales that are suspect, thus protecting the investor. The bill also extends the statute of limitations provision of the current law, giving a person four years, instead of three, to bring an action against one who violates the Securities Act. The bill was passed by the Senate in November of 1985 and by the House in June of 1986.

\*\*\***Punitive Damage Insurance** -- **Senate Bill 1052**, signed into law December 19 as **Act 97** of 1985, clears the way for ski slope operators to purchase insurance that will protect them from

lawsuits seeking punitive damages for injuries due to unintentional negligence.

A legislative statement that is part of the bill states that it "is not against the commonwealth's public policy" for a ski area operator to be insured against punitive damages "other than those punitive damages arising from an intentional tort (act) committed by such operator."

Previously, ski resorts were permitted to carry insurance that only provided compensation for the actual cost of an injury.

Supporters of **SB 1052** said its provisions would protect owners of ski resorts against those who seek punitive awards for injury resulting from events such as failing to properly warn skiers of icy conditions or failing to properly maintain equipment.

### **Agriculture and Rural Affairs**

\*\*\***Agricultural Fair Act** -- Legislation (**Senate Bill 1298**) creating the Pennsylvania Agricultural Fair Act was signed into law July 8, 1986, as **Act 92**. Basic aim of the new law is to provide for a more clearly defined funding procedure for the 104 agricultural fairs that are staged annually in the commonwealth.

**SB 1298** also establishes an advisory committee to work with the Secretary of Agriculture and contains language that requires fairs to offer at least six hours of events or programs for a fair day to qualify as an "activity" day. This provision limits opportunities for fairs to claim a day of activity by staging a token program to qualify for a higher classification--and more funding.

The bill did not provide for a particular budget appropriation; whatever money is included in the state's annual budget is available in the form of grants to fair associations and also to state 4-H and FFA organizations.

\*\*\***Poultry Growers Protected** -- **House Bill 976** requires a merchant to pay a poultry farmer within 21 days after receiving delivery of poultry, unless the two parties have another agreement in writing.

This bill was signed into law July 2, 1986, as **Act 74**. There had been no payment deadline in previous law. Under provisions of **Act 74**, if payment is not made within the 21-day period, the merchant is liable for interest on the unpaid balance for each day the account is delinquent. A producer who is not paid, or is not paid interest is now able to bring a civil action against the merchant.

\*\*\***Dog Law Amended** -- Farmers are now authorized by law (**Act 59** of 1986) to take civil action against the owner or owners of dogs that have attacked sheep, poultry or livestock. Under previous law, losses were determined by the state and paid to a farmer from the Dog Law Restricted Account. Now, if the farmer feels he has sustained losses beyond those covered by the state, he can commence a civil action for the additional loss against the owner of the dog or dogs. **House Bill 180** was signed into law May 16, 1986.

\*\*\***Commission Renewed** -- The state Conservation Commission is renewed under provisions of sunset legislation (**House Bill 2264**) signed into law April 30, 1986, as **Act 39**. The bill amends the Conservation District Law to provide that commissioners appointed by the governor need be confirmed by a majority vote of the Senate, not a two-thirds vote.

\***Rabies Vaccinations** -- Legislation (**Senate Bill 562**) now in the House Game and Fisheries Committee requires that dogs be vaccinated against rabies before they can be licensed. An applicant for an annual dog license would have to present proof to the county treasurer that the animal has been vaccinated against the disease.

This legislation was prompted by the recent increase in the number of confirmed cases of rabies in the commonwealth. It provides that in areas where the Department of Agriculture determines that the number of cases poses a health risk, the department can establish anti-rabies clinics.

An amendment to the bill appropriates \$250,000 to the department for wildlife rabies vaccine research. **SB 562** cleared the Senate July 1, 1986.

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