

December 14, 2007

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Legislative Report

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## **PSERS sets new contribution rate**

The Pennsylvania Public School Employees' Retirement System Board of Trustees met on Dec. 13 to certify the new employer contribution rate for fiscal year 2008-09. Effective July 1, 2008, the total employer contribution rate will be **4.76%**. This is a decrease from the current rate of **7.13%**. The 4.76% employer contribution rate is composed of **0.76%** for health insurance premium assistance and a pension rate of **4.00%**.

PSERS Executive Director Jeffrey B. Clay cautioned, however, that while the latest actuarial figures may support a decrease in contribution rates, the Department of Education has recommended that school employers **maintain the current 7.13%** rate to prepare for possible legislative action to avoid the dramatic contribution rate increase forecast in less than five years.

"While PSERS has made great progress in reducing the rate increase anticipated in fiscal year 2012-13, school employers continue to face that challenge and comprehensive pension reform legislation has not yet been passed," Clay said.

"If pension reform legislation is enacted, it will likely require school employers to maintain their current employer contribution rate rather than reducing it," he added. "The Department of Education recommended earlier this week that school employers continue to budget based on a 7.13% employer contribution rate, and I encourage all school employers to follow their budget guidance."

The Department of Education issued its budget guidance memo to school employers earlier this week, in anticipation of the passage of pension reform legislation to mitigate the significant forecasted increase in employer contributions in fiscal year 2012-13.

Last week, the Senate passed **SB 826** and sent it to the House. This bill determines the amount of the employer contribution rates for active members of PSERS. The rate would consist of the normal contribution rate, the accrued liability contribution rate and the supplemental annuity contribution rate. If enacted before the end of this fiscal year, the total employer rate would be modified by experience factors, but in no case would it be less than 4% plus the premium assistance contribution rate. Beginning in FY 2008-09, the same would apply except that in no case would the rate be less than 6.44% plus the premium assistance contribution rate.

### *House amends and passes open records changes*

*This week the House of Representatives extensively amended and approved legislation under **SB 1** that amends the state's open records law. The bill now will return to the Senate for a concurrence vote in January. If the Senate rejects the House version, a conference committee between the chambers will be appointed to draft a compromise bill. If the*

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*Senate concurs with the House language, the bill will be presented to Gov. Rendell for his approval.*

*The major shift from current law under the bill is that all records are presumed to be publicly accessible unless explicitly exempted in the law, and the agency, not the requester, has the burden of proof in determining that a record is protected under law. A state Open Records Clearinghouse would be established.*

*Approximately 65 floor amendments were introduced on the House floor, and 19 were adopted. As passed by the House, local agencies may establish their own reasonable duplication fees, instead of the new state records office. The bill's deficiencies on the protection of predecisional documents were partially resolved by an amendment that clarifies that a predecisional document is not publicly accessible until it has been presented to a quorum of a governing body's membership at a public meeting.*

*However, other amendments that were added are more problematic. Under the bill, local agencies now are prohibited from charging fees for review, retrieval or redaction of requested records, with no alternative means to compensate agencies for these costs. Also, purview over the state records office was transferred from the Department of Community and Economic Development to the State Ethics Commission. The office's duties include reviewing appeals of decisions by commonwealth or local agencies, issuing orders and advisory opinions to agencies and requesters, providing annual training to agency officials and employees and establishing the duplication fees charged by commonwealth and local agencies. The new language, however, grants the office more power and regulatory discretion and prescribes an additional appeals process that conflicts with the one afforded to the court system.*

*The House did reject an amendment that would have guaranteed public access to any written, recorded or other memorialized collective bargaining offers or proposed settlements during a school district's collective bargaining process, provided that the district has had possession of those records for more than two weeks. The amendment would have allowed school boards to override this requirement by passing a resolution at an open meeting. PSBA opposed this measure.*

### ***This week on the Hill.***

*The House Education Committee approved [House Resolution 460](#) that establishes the Joint Legislative Commission on Public School Finance to analyze the results of the costing-out study released last month by the State Board of Education. The commission would identify the strategy that school districts and the state must adopt in order to improve their chances of meeting the requirements of the commonwealth's accountability system. The resolution also outlines the specific goals of the commission, which include ensuring that the:*

- Commonwealth's allocations for basic education are distributed both adequately and equitably;*
- Allocations reflect districts' unique characteristics, including changes in demography;*
- Allocations are linked with measures of appropriate accountability; and*
- School districts remain accountable for meeting commonwealth academic standards and attaining student proficiency.*

*As amended, the governor and legislative leaders must appoint the commission members no later than 45 days after the resolution's adoption. The membership must include three elected school board members, each representing either an urban, suburban or rural school district, who are recommended by PSBA. The first meeting of the commission must take place within 30 days of the appointments. The resolution requires a preliminary report on the panel's findings and recommendations to be submitted to legislative leaders no later than 180 days after the first meeting. The final report is due one year after the first meeting, after which the General Assembly may develop legislation to implement the commission's recommendations. Lastly, the panel must hold hearings to solicit public comment on the final report.*

*The House Aging and Older Adult Services Committee amended and reported [HB 1225](#) that sets standards for property tax and rent rebate programs that are created by local taxing authorities and supported by their general funds. The maximum eligible incomes for property tax and rent rebates would be \$35,000 and \$15,000, respectively. The bill limits program eligibility to senior citizens 65 or older, widows or widowers 50 or older and permanently disabled adults. Claimants cannot be owners of real property that is already exempt from taxes or recipients of public assistance.*

*As amended, the bill limits the length of a rebate program to one year after its establishment. A local taxing authority is prohibited from increasing any taxes it levies in order to fund a rebate program authorized by this bill. Before enacting a rebate program, the taxing authority would have to publicly resolve that tax increases will not occur as a result. The*

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bill also sets the maximum amount of either type of rebate to those established by Act 1 of Special Session of 2006. A taxing authority also must notify its taxpayers within 60 days of approving a rebate program. The notification must include information related to eligibility, the application process, the rebate amount(s) and the distribution of the rebate program to qualified claimants. The amended bill further requires all taxing authorities to send such notification to the Department of Community and Economic Development for the information to be posted on its Web site. The bill was re-referred to the House Appropriations Committee.

The House Health and Human Services Committee reported [House Resolution 501](#) that requires the committee to develop recommendations regarding sports nutrition for teenage athletes in Pennsylvania. The report must include a proposal for a sports nutritional educational program that would be available to high school athletic directors and coaches for training purposes. The resolution further requires the committee to develop an educational program that would be capable of reaching all high school athletes. The committee must prepare a recommendation on funding if it is necessary for the ongoing training of coaches. The committee's report is due in November 2008.

The House Local Government Committee moved [HB 904](#) as it was amended by the panel last week and reported by PSBA. HB 904 would authorize municipalities to implement temporary development moratoria in order to permit enactment or revision of a comprehensive plan, a subdivision and land development ordinance or a zoning ordinance. A moratorium would be justified if such municipal policies were necessary to prevent the shortage or overburdening of essential public facilities that could occur as a result of any proposed development or to prevent serious harm from the development in the municipality because of the absence or inadequacy of an existing land policy. A moratorium could not exceed one year, and developers could apply for a waiver.

The bill's definition of "essential public facilities" includes school district infrastructure, capacity and services. Municipalities would be required to permit providers of essential public facilities an opportunity to present evidence in response to the waiver request at the appropriate hearing. Municipalities also would have to provide their school districts with at least seven days notice of a waiver hearing and to notify the districts within seven days of approving a waiver. Also, waivers could be granted to builders who demonstrate that the proposed development is composed of no more than 10 units and is of a limited nature. The bill was re-referred to the House Appropriations Committee.

### **State Board of Education revises plans for new high school graduation requirements**

The State Board of Education has issued a revised version of its plan to implement new high-stakes high school graduation requirements. It raises the number of Graduation Competency Exams from nine to 10 by adding a test on World History, allows the use of validated local assessments and allows the use certain Advanced Placement and International Baccalaureate exams. The plan calls for these tests or a combination of them to be used to demonstrate proficiency. In addition, the revised plan allows students with disabilities who complete their program as developed by the IEP team to receive a regular diploma.

The State Board's revised plan includes these provisions:

- The Department of Education would administer Graduation Competency Assessments, which could replace the traditional end-of-course final exams. A total of 10 GCAs would be developed:

**Mathematics:** Algebra I, Algebra II and Geometry

**English:** English 10 and English 11

**Science:** Biology and Chemistry

**Social Studies:** American History, World History and Civics and Government

- GCAs would be offered at least three times each year, at the end of the traditional fall, spring and summer semesters. They would be scored so that schools would have the results for graduating seniors at least 10 days prior to graduation.

- GCAs would be composed of modules containing course-related content to permit a student who fails to achieve proficiency on the GCA to retake only those modules in which he or she was not successful. This will permit the student and school to focus remediation efforts at the course material in which the student was not successful.

- The board proposes to allow the use of local assessments. This is a major change from the board's previous proposal. However, the plan would require districts that choose to use this option to have their assessments validated through an independent review to assure local assessments are aligned to state standards and proficiency levels. No details were

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*provided on how the review would be completed.*

- *Districts would be permitted to determine student proficiency through the use of Advanced Placement and International Baccalaureate exams in the subjects assessed by GCAs.*
- *School districts could use any combination of assessment instruments (PSSA, GCAs, local assessments and AP/IB) to determine whether students are proficient in each discipline. Students only need to demonstrate proficiency on only one type of assessment in each discipline in order to be deemed proficient for purposes of high school graduation.*
- *To be deemed proficient for purposes of graduation through the series of GCAs (in lieu of the PSSA, local assessments or AP/IB), students need to demonstrate proficiency on the English 11 GCA, any two mathematics GCAs, either science GCA and one of the social studies GCAs.*
- *The State Board would keep in place its existing Chapter 4 provision that a student with disabilities who satisfactorily completes a special education program developed by an Individualized Education Program team be granted and issued a regular high school diploma.*
- *In addition, the board would require that students with disabilities and those who are English language learners be provided appropriate accommodations following state guidelines when taking state or local assessments.*

***With the conclusion of this week's activity, legislators have adjourned for the remainder of the month and will return to session in January. This will be the final PSBA legislative report for 2007. The weekly update will resume the first week of January. Happy holidays!***

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