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## House Finance

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### **House Finance Committee**

*3/31/15, 9:00 a.m., Room G-50 Irvis Office Building*

By Matt Hess

**Committee(s):** House Finance Committee

**Audio:**  ([click here](#)) (Note: Depending on your audio player and the length of the hearing this could take a few minutes to load.)

**Meeting type:** Informational Meeting

**Subject:** Priorities and issues of private entities

**Bills discussed:** [HB 245](#), [SB 4](#), [HB 700](#), [HB 701](#), [HB 702](#)

**Keyword(s):** taxes, pensions, combined reporting, professional services

**Testimony:** [Susan Howe](#), Chair of the Pennsylvania Institute of Certified Public Accountants (PICPA) Fiscal Responsibility Task Force

[Dan Schulder](#), Chair of the PICPA State Taxation Committee

[Samuel Denisco](#), Vice President of Government Affairs, Pennsylvania Chamber of Business and Industry

[Neil Trama](#), Pennsylvania Society of Tax and Public Accountants

[Richard Kelly](#), Pennsylvania Society of Tax and Public Accountants

[Mark Hughes](#), Executive Vice President and CFO of the Citizens and Northern Bank and speaking on behalf of the Pennsylvania Bankers Association

[Neal Leshner](#), Legislative Director, National Federation of Independent Business

[Warren Hudak](#), President, Hudak and Company

**Members Present:** Chairman Bernie O'Neill (R-Bucks), Minority Chairman Jake Wheatley (D-Allegheny), Rep. Mike Peifer (R-Pike), Rep. George Dunbar (R-Westmoreland), Rep. Stephen Bloom (R-Cumberland), Rep. Matt Gabler (R-Clearfield), Rep. Lee James (R-Venango), Rep. Aaron Kaufer (R-Luzerne), Rep. Jerry Knowles (R-Schuylkill), Rep. John Lawrence (R-Chester), Rep. Duane Milne (R-Chester), Rep. Brad Roae (R-Crawford), Rep. Madeline Dean (D-Montgomery), Rep. Margo Davidson (D-Delaware), Rep. Leslie Acosta (D-Philadelphia), Rep. Matt Bradford (D-Montgomery), Rep. Mary Jo Daley (D-Montgomery), Rep. Sid Kavulich (D-Lawrence), Rep. Daniel McNeill (D-Allegheny).

The committee held an informational meeting to discuss priorities and issues of private entities.

[Susan Howe](#), Chair of the Pennsylvania Institute of Certified Public Accountants (PICPA) Fiscal Responsibility Task Force, discussed a recent task force report and highlighted proposed state and municipal pension policy options for consideration, including the following:

- Ensure no change in benefit levels for all existing retirees;

- Establish a defined contribution pension system for all new public school teachers, state employees, and lawmakers;
- Prohibit pension obligation bonds or other funding mechanisms that create liabilities outside the domain of the plan;
- Require pensions be funded to actuarially determined levels on an annual basis;
- Shift from defined pension benefits to a hybrid plan for new hires;
- Establish pension plan portability options for new hires;
- Decrease the vesting period but increase the retirement age and length of service.

"The underfunded status of pensions is the most pressing threat to the state's long-term financial health, and many municipalities face a similar crisis. Failure to adequately fund and control growing pension obligations could cause hardships for current and future retirees, and could result in municipal or state bankruptcy if steps are not taken to remedy the situation," Howe stated. "There has been a great deal of debate over potential movement from defined benefit to defined contribution pension plans. The report explains the benefits of both, as well as the funding requirements to make a shift from one to the other."

Howe also discussed taxation principles and the need for transparency in state fiscal matters. "There is a growing call for transparency in governmental fiscal matters. The availability of information at our fingertips has given rise to demands for greater accountability from those who hold positions of authority," Howe stated. "Information on the current use of government funds is readily accessible; however, this only tells part of the story. To be truly transparent, future funding obligations must also be disclosed. Stewards of government funds should look to meet these requests."

Dan Schulder, Chair of the PICPA State Taxation Committee, discussed PICPA's legislative priorities for the session which include opposition to an expansion of the state sales and use tax to accounting, tax, and related professional services; clarification for filing amended tax reports; enactment of Rep. Dunbar's [HB 245](#); and passage of [SB 4](#). "PICPA supports Senate Bill 4, a state constitutional amendment that addresses the separation of powers between the courts and the legislature," Schulder stated. He explained, "PICPA's support for SB 4 is centered on a key guiding principle of good tax policy: Certainty. It is important to a taxing system because it improves compliance and increases respect for the system. Certainty comes from clear statutes as well as timely and understandable administrative guidance that is readily available to taxpayers. SB 4 provides greater certainty to Pennsylvania's not-for-profit taxpayer community as well as the communities receiving the revenue."

Chairman O'Neill noted that the committee plans on having public hearings on both HB 245 and SB 4.

Chairman Wheatley questioned if PICPA takes into account government priorities when determining what makes good tax policy. Howe explained that performance is taken into account. "A lot of times tax legislation is passed with the expectation that it is going to drive behavior or raise x amount of money and it's not always clear at the time how that plays out," she stated. "You always want to have that part of the analysis done so you at least have a clear idea of what you think is going to happen and if it's not happening be prepared to make changes so

that the legislation and how the tax is working accomplishes what you mean it to do. That's probably the main thing."

Chairman Wheatley asked if Pennsylvania's current tax policy is equitable and fair. Howe said that would be a difficult judgment for PICPA to make. "Equity and fairness is something that is somewhat subjective," she stated. "We look it from the standpoint of does it make sense to the business community and is it balanced and are you going to have unintended consequences."

Chairman Wheatley asked if Pennsylvania's surrounding states tax services. Schulder explained that Maryland enacted the sales tax on services and then eliminated it and also scrapped combined reporting. "Maryland has been the crucible on a number of these things we are talking about now and Maryland has said 'that doesn't work for us.'"

Chairman Wheatley asked PICPA to respond in writing on their thoughts on Act 55 if SB 4 is enacted.

Rep. Dunbar noted that the governor's sales tax proposal provides a business to business credit for accounting services but individuals filing their taxes would be charged the tax. He questioned if the policy would place an unfair burden on lower and middle income taxpayers. Schulder agreed that it would be a regressive policy. "It's definitely unfair because they are going to be hit with the tax and others are not," he stated. "You're going to tax people who can't afford it."

Rep. Dunbar questioned if the combined reporting proposal would be a disincentive to businesses to move to Pennsylvania. Schulder explained that combined is difficult to administer. "It's very hard to administer, it's very hard to get a handle on definitions," he stated. "You're going to have essentially a separate set of books dealing with consolidated reporting versus combined reporting. You'll have multiple sets of issues with regard to depreciation and now you're going to have an additional set of complexities in combined reporting."

Chairman O'Neill noted that the committee will be holding a public hearing on combined reporting.

Rep. Grove said the governor's proposal for the sales tax would include extending the tax to Meals on Wheels. He questioned if the governor's plan is removing the sales tax exemption on nonprofits. Schulder said the issue is unclear. "My gut tells me it's a sales tax on the individuals getting the service," he stated.

Rep. Roae questioned if a private company has ever switched from a defined benefit plan to a defined contribution plan. Howe said she has never seen it happen. "Defined benefit pensions are sort of a historical model," she stated. "Foremost you want to protect the retirees that are already vested in the system and earned and are collecting benefits. That's a responsibility that the taxpayers and the commonwealth have to those people. But when you look at future generations of employees versus future generations of taxpayers that's where you get more into an issue of what's fair for both sides and what makes the most sense fiscally and economically."

Rep. Daley questioned if businesses are able to move from a defined benefit plan to a defined contribution plan if they have an unfunded liability in the defined benefit plan. Howe explained that businesses can move to a defined contribution plan. "You certainly can do it and accounting standards dictate that you then have a plan to fund that liability," she stated. "That liability is there regardless of what you do going forward."

[Samuel Denisco](#), Vice President of Government Affairs, Pennsylvania Chamber of Business and Industry, discussed recent changes to taxes in the Commonwealth including the elimination of the inheritance tax for small employers and changes to the Local Tax Enabling Act and also emphasized the need to repeal the Capital Stock and Franchise Tax and removing the cap from Net Operating Losses. Denisco also spoke in support of property tax assessment reform. "How properties are valued for tax purposes affects local tax fairness for individuals and businesses, and the assessment process that sets these values directly affects uniformity and fairness," he stated. "Businesses raise concerns about the infrequency with which reassessment occurs in Pennsylvania, which may mean assessments are no longer fair and that some properties end up paying more or less than they should. If reassessment occurred more regularly, property values would be set more uniformly and the real property tax would be fairer. The Chamber believes in mandatory reassessment and assessment reform that provides clear, consistent and uniform assessment standards."

Denisco urged the legislature to take the long view of tax reform in Pennsylvania. "The PA Chamber recognizes that the Commonwealth is facing budgetary deficits and any change in the corporate tax structure may have a negative effect on short-term revenues," he stated. "However, Pennsylvania needs to be increasingly competitive, for both jobs and capital. Companies and investors have choices, both globally and among the states, on where to place their investments and we want businesses to remain here, invest here and grow here."

Chairman Wheatley spoke in support of the governor's budget and questioned why the membership of Chamber believes that Gov. Wolf's proposal would make Pennsylvania's business climate worse. Denisco noted that the membership of the Chamber is broad based. "The governor's proposal is very broad and bold and touches many taxpayers and every tax is proposed to increase except the Corporate Net Income Tax," he stated. "The governor said 'don't look at this in a vacuum, everything needs to work together' and from our standpoint it doesn't work together."

[Neil Trama](#), Pennsylvania Society of Tax and Public Accountants (PSTAP), spoke against the governor's proposal to expand the sales tax. "As the voice of smaller accounting and tax practitioners and the thousands of individual taxpayers who are our clients, PSTAP is specifically opposed to removing the sales tax exemption on accounting services as it is a regressive tax and will adversely impact Pennsylvania consumers including many low-income and senior citizens who are our clients," he stated. "Moreover, it will position Pennsylvania accountants at a competitive disadvantage with neighboring states that do not currently tax these services. Tax practitioners are a tax collection arm of the Commonwealth and we help to ensure that taxpayers understand and conform to ever-changing tax law and requirements through the services we provide. The increased cost to the consumer will have a detrimental effect on smaller practices in particular who service the majority of the Commonwealth's individual taxpayers."

[Richard Kelly](#), Pennsylvania Society of Tax and Public Accountants, spoke in support of a total elimination of the inheritance tax. "The inheritance tax penalizes many small family owned businesses by assessing a rate too high to allow business survival following the death of a previous owner, thus impairing the ability of the business to be transitioned to family members. Without the necessary cash on hand individuals are often forced to sell all or part of the business," he stated. "Likewise, in the event of a transfer of real estate or other property, individuals in some cases must sell the property to pay for the inheritance tax and associated legal fees. Taxes are paid on wages, profits, interest, dividends and capital gains; so the accumulation of wealth is already taxed. In a case where the same inheritance is passed down through several generations the money is taxed multiple times."

[Mark Hughes](#), Executive Vice President and CFO of the Citizens and Northern Bank and speaking on behalf of the Pennsylvania Bankers Association, discussed changes made by Act 52 of 2013 and spoke in opposition to the governor's budget proposal. "We see absolutely no justification for raising the Bank Shares Tax rate to 1.25 percent retroactive to 2014 when by the department's own data that would increase Pennsylvania banks' state tax burden far in excess of even a \$350 million measure of 'revenue neutrality'," he stated. "Using a rough approximation of the impact of this tax increase on the Pennsylvania banking industry's ability to lend to your constituents, an increase to a 1.25 percent Bank Shares Tax rate could result in \$3.8 billion fewer loans over a five-year period. That is a serious reduction in credit availability that would diminish individuals' and businesses' ability to prosper in the Commonwealth with further economic impacts that we cannot calculate."

Chairman O'Neill questioned if the shares tax increase would affect the interest rates or the number of people eligible for a loan. Hughes explained that there would be negative consequences for Citizens and Northern Bank. "We may have to cut a few employees at the margin, we may have less dollars available to loan because we have manage our capital ratios, we may have fewer dollars available for charitable contributions," he stated.

Rep. Peifer explained that the liability for community banks in his legislative district have gone up 90 percent. "In the course of five years, we've darn near had a 100 percent tax increase for my small community banks," he stated. Hughes said that finding is consistent for community banks throughout Pennsylvania.

Rep. Peifer expressed concern about the funding ratios for community banks if the governor's proposal is enacted. "Our banks are so important to our small communities back home. They really help small businesses grow and help our economy grow," he stated. "If we're taking these dollars out of our lending pool we're really doing a disservice to our community banks and our overall community and our hopes of coming out a recession."

[Neal Lesher](#), Legislative Director, National Federation of Independent Business, gave an overview of how small businesses deal with taxes in the Commonwealth. "Small employers make up an enormous segment of Pennsylvania's business community, employing about half of all private sector employees. About 80 percent of businesses in Pennsylvania are organized as sole proprietors, partnerships, sub-chapter-S corporations or Limited Liability Companies (LLCs)," he stated. "Businesses organized in this fashion report their business income and pay

business taxes through their personal returns. In the past, our organization has come before this committee with recommendations to simplify the tax code and compliance process; make state tax rules consistent with federal law; and reduce the corporate and personal tax rates to spur economic activity and generate additional state tax revenue. Tax policy continues to be a top priority for small businesses because of the complexity of the system between the federal and state tax codes."

Warren Hudak, President, Hudak and Company, discussed the additional hurdles small business face in regard to taxes. "The cost of tax paperwork, for example, is the most expensive burden that government imposes on small-business owners -- as much as \$74 per hour in tax preparation and compliance costs. For every dollar in state sales tax that a small-business owner collects and remits -- it costs 13 cents in bookkeeping and compliance," he stated. "This is mainly because many larger companies employ the staff necessary to navigate through tax laws, a luxury that most small businesses do not have. Small businesses want to innovate, hire, and thrive. To do this, they need a climate of certainty about the rules within which they operate."

Hudak also spoke in support of [HB 700](#), [HB 701](#), and [HB 702](#). "Tax policy should also be competitive with other states, conform to Federal standards when possible, and remove barriers to growth and investment," Hudak stated. "That is why NFIB members have worked with members of the House and Senate to develop the Small Business Tax Fairness package. These bills would remove unfair tax obstacles facing small businesses, and allow them to compete and grow."

Chairman Wheatley questioned what the state can do modernize to Pennsylvania's tax policy to make it more fair and equitable. Leshner said NFIB supports simplification of the tax code. "I believe the governor's proposal disproportionately puts a heavier tax burden on smaller businesses and working families and to us we don't think that's fair, we don't think that's equitable."

Rep. Acosta explained that a large number of small businesses have closed or left Philadelphia because of the burden on those small firms. She questioned if there is a trend across Pennsylvania of small businesses closing. Hudak responded "those that have more, have more and those that have less, have less" and explained that businesses in Pennsylvania today have to comply with a greater number of regulatory and financial burdens. "

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**Committee Member Contact Information (click or mouse over):** [O'Neill - Chairman](#) / [Peifer - Vice Chairman](#) / [Dunbar - Secretary](#) / [Bloom](#) / [Evankovich](#) / [Gabler](#) / [Grove](#) / [James](#) / [Kaufner](#) / [Knowles](#) / [Lawrence](#) / [Milne](#) / [Quigley](#) / [Rapp](#) / [Roae](#) / [Sankey](#) / [Wheatley - Chairman](#) / [Dean - Vice Chairman](#) / [Davidson - Secretary](#) / [Acosta](#) / [Boyle](#) / [Bradford](#) / [Daley, M](#) / [Harris, J](#) / [Kavulich](#) / [Kinsey](#) / [McNeill](#)