

No. 2017-48

AN ACT

SB 181

Providing for performance-based budgeting and tax credit efficiency review; establishing the Performance-Based Budget Board and providing for its powers and duties; and conferring powers and imposing duties on the Independent Fiscal Office.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Performance-Based Budgeting and Tax Credit Efficiency Act.

Section 2. Findings.

The General Assembly finds and declares as follows:

(1) The traditional method of budget development, which relies upon incremental adjustments to expenditures made in the previous financial period, insulates governmental activities from the thorough fiscal review expected by taxpaying citizens.

(2) New and changing demands for public services are met through excessive budget growth rather than by systematic and thorough analysis based on performance measurement and established performance benchmarks and the reallocation of existing fiscal resources. Traditional budgeting processes often result in the continuation of obsolete or ineffective programs and increased reliance on taxpayer support. Some programs were established so long ago that the original statutory basis has either been forgotten or is out of date. In time, the budget is driven by inertia rather than by clear and defensible purposes.

(3) Performance-based budgeting is an effective method to counter the tendency toward perpetuation of outmoded State programs.

(4) A thorough and efficient review of the tax credits the Commonwealth offers to various individuals, organizations and companies is vital to ensuring that the Commonwealth is being a good stalwart of the support of taxpayers.

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Agency." An agency, board or commission under the Governor's jurisdiction.

"Board." The Performance-Based Budget Board established under this act.

"IFO." The Independent Fiscal Office established under Article VI-B of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

"Secretary." The Secretary of the Budget of the Commonwealth.

Section 4. Performance-based budgets.

(a) Initiation of program.—Notwithstanding the provisions of sections 610 and 611 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, to the contrary, the secretary shall for fiscal year 2018-2019 initiate a program of performance-based budget reviews as part of the annual budget preparation and program evaluation processes.

(b) Schedule.—The secretary, in conjunction with the director of the IFO, shall, within 30 days of the effective date of this act, establish a schedule of performance-based budget reviews for all agencies. The schedule shall ensure that the agencies are subject to a performance-based budget review at least once every five years. The schedule for an agency may not be altered until the five-year schedule review time period has expired for the agency.

(c) Notice.—Each time an agency is subject to a performance-based budget review, the secretary shall notify the agency and require the agency to prepare and submit such information to the IFO as may be required for the preparation of a performance-based budget plan. The information shall include, but not be limited to:

(1) Detailed descriptions of all agency line item appropriations and programs, including information on populations served, grants awarded and subsidies provided for grant and subsidy appropriations.

(2) Descriptive information and data related to existing performance measures for agency appropriations and programs.

(3) An agency mission statement and agency goals and objectives for the budget year and successive planning years, including specific goals and objectives, where they exist, for agency programs.

(4) Any other information as the IFO may require.

(d) Submission of information.—Agencies shall submit, in a timely manner as determined by the IFO to be appropriate to complete the analysis, performance-based budget information contemporaneously to the secretary, the IFO, the chairperson and minority chairperson of the Appropriations Committee of the Senate and the chairperson and minority chairperson of the Appropriations Committee of the House of Representatives.

(e) Concurrent resolutions.—The General Assembly may direct a performance-based budget review for an agency by adoption of a concurrent resolution. Upon adoption of a concurrent resolution under this subsection, the secretary shall make notification to the agency under subsection (c).

Section 5. Tax credit review.

(a) Schedule.—The secretary, in conjunction with the director of the IFO, shall, within 30 days of the effective date of this subsection, establish a schedule for review for all tax credits. The schedule shall ensure that tax credits are subject to a review by the IFO at least once every five years. The schedule for review of a tax credit may not be altered until the five-year schedule for review time period has expired for the tax credit.

(b) Future tax credits.—A tax credit enacted on or after the effective date of this subsection shall be reviewed by the IFO no later than January 1 of the fifth year after the tax credit is enacted.

(c) Expiration.—If a tax credit has an expiration date as provided under the laws of this Commonwealth, the tax credit shall be reviewed no later than January 1 of the year preceding the year of the termination date.

(d) IFO duties.—The IFO shall submit a report of a review made under this section to the board, the chairperson and minority chairperson of the Finance Committee of the Senate and the chairperson and minority chairperson of the Finance Committee of the House of Representatives. The IFO shall publish a report of a review under this subsection on the IFO's publicly accessible Internet website.

(e) Report contents.—A report of a review under subsection (d) shall include all of the following contents:

(1) The purpose for which the tax credit was established.

(2) Whether the tax credit is accomplishing the tax credit's legislative intent.

(3) Whether the tax credit could be more efficiently implemented through alternative methods.

(4) Any alternative methods which will make the tax credit more efficient if necessary.

(5) The costs of providing the tax credit, including the administrative costs to the Commonwealth and the lost revenues to the Commonwealth and local government entities within this Commonwealth.

(f) Concurrent resolutions.—The General Assembly may direct the IFO to conduct a tax credit review under this section by adoption of a concurrent resolution.

Section 6. Independent Fiscal Office.

(a) Development of agency performance-based budget plan.—

(1) The IFO, pursuant to its mandate under section 604-B(a)(3) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, and this act, shall review agency performance-based budget information and develop an agency performance-based budget plan for agencies subject to a performance-based budget review under section 4.

(2) In developing performance-based budget plans, the IFO shall evaluate each agency program or line-item appropriation and develop performance measures for each agency program or line-item appropriation.

(3) As determined by the IFO to be applicable, performance measurements shall include outcome-based measures, including efficiency measures, activity cost analysis, ratio measures, measures of status improvement of recipient populations, economic outcomes or performance benchmarks against similar State programs or similar programs of other states or jurisdictions.

(b) Tax credit plan.—

(1) The IFO, pursuant to its mandate under section 604-B(a)(3) of The Administrative Code of 1929 and this act, shall review tax credits and develop a tax credit plan for tax credits subject to a review under section 5.

(2) In developing tax credit plans, the IFO shall evaluate each tax credit and develop performance measures for each tax credit.

(3) As determined by the IFO to be applicable, performance measurements shall include outcome-based measures, including efficiency measures, measures of status improvements of recipient

populations, economic outcomes or performance benchmarks against similar State programs or similar programs of other states or jurisdictions.

(c) Completion and submission of evaluations.—The evaluations under subsections (a) and (b) shall be completed in a timely manner and submitted by the IFO to the board for review.

(d) Interagency cooperation.—The secretary and the heads of agencies shall cooperate with the IFO and provide any information or data that the IFO may require to carry out its duties under this act.

Section 7. Performance-Based Budget Board.

(a) Establishment.—The Performance-Based Budget Board is established as an independent board to review the performance-based budget plans developed by the IFO for agencies and to make recommendations on how each agency's operations and programs may be made more transparent, effective and efficient.

(b) Members.—The board shall consist of the following members:

(1) The secretary.

(2) The chairperson of the Appropriations Committee of the Senate.

(3) The minority chairperson of the Appropriations Committee of the Senate.

(4) The chairperson of the Appropriations Committee of the House of Representatives.

(5) The minority chairperson of the Appropriations Committee of the House of Representatives.

(c) Review and approval.—

(1) The board shall review each performance-based budget plan submitted by the IFO in a timely manner.

(2) Plans shall be reviewed by the board at a public meeting.

(3) Meetings of the board shall be subject to the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law, and 65 Pa.C.S. Ch. 7 (relating to open meetings).

(4) Plans not approved or disapproved by the board within 45 days of submission by the IFO shall be deemed approved. If the board disapproves a plan, it shall be returned to the IFO with recommendations for revision and resubmission to the board.

(d) Publication.—Reviewed performance-based budget plans shall be published on the IFO's publicly accessible Internet website.

(e) Agency representation during board review.—The head of the agency, or a deputy secretary-level position, shall:

(1) Attend the performance-based budget board meeting when the IFO presents the agency's performance-based budget plan.

(2) Be available to offer additional explanation for information contained in the plan.

(f) Schedule recommendation.—One year before the expiration of the first schedule for review under sections 4 and 5, the board shall, in conjunction with the director of the IFO, provide a long-term schedule recommendation to the General Assembly.

Section 8. Governor.

The Governor shall consider reviewed agency performance-based budgeting plans and performance measurements related thereto in the annual budget development and implementation processes.

Section 9. General Assembly.

The General Assembly shall consider reviewed agency performance-based budgeting plans, performance measurements related thereto and whether or not a tax credit is efficient in the annual budget development and implementation processes.

Section 10. Effective date.

This act shall take effect in 60 days.

APPROVED—The 30th day of October, A.D. 2017

TOM WOLF