

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 1051

PRINTER NO. 1346

AMOUNT

See Fiscal Impact

FUND

General Fund

DATE INTRODUCED

January 29, 2024

PRIME SPONSOR

Senator Hutchinson

DESCRIPTION

Senate Bill 1051 amends the Tax Reform Code of 1971, in procedure and administration, further providing for review by the Board of Finance and Revenue and for a settlement conference process.

This legislation authorizes the Board of Finance and Revenue (board) to extend the date for filing a petition upon written application for good cause shown and a finding that granting the application will not prejudice the other party.

The bill adds a new section to Article XXVII (Procedure and Administration) of the Tax Reform Code providing for a settlement conference process. The board shall be required to appoint one or more individuals to serve as a settlement officer, who may be either an employee of the board or a third-party contractor, for a settlement conference. A settlement officer must be a citizen of the United States, an attorney or certified public accountant in good standing, must have significant experience in a position requiring substantial knowledge of Pennsylvania tax law and may not be employed by the Department of Revenue, the State Treasurer or the board, other than in the capacity as a settlement officer.

A settlement officer shall be fair and impartial in order to preside over a settlement conference and must disclose any potential conflicts of interest as soon as practicable. The board may remove a settlement officer at its sole discretion. The compensation for a settlement officer shall be set by the State Treasurer.

Notwithstanding time limits for decisions and orders under current law, either party may request a settlement conference to settle a petition for review of a decision and order under the board's jurisdiction. The request shall be submitted in writing with the petition or within 30 days of the petition being filed. The board may allow settlement conferences after the deadline in the exercise of discretion or upon application for good cause.

The board may defer consideration of a petition until after either party declines to participate in a settlement conference or if otherwise terminated. If consideration of the petition is deferred, the board shall issue a decision within six months of a party's refusal to participate.

The party requesting a settlement conference shall simultaneously notify the other party and the board of the request. A request for settlement must provide a brief

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description of the dispute and the requested relief. The non-requesting party must file a written response in support or opposition of the settlement conference within ten business days of the requestor's submission. Within five business days of receipt of the response, the board shall notify the parties in writing whether an appeal will be referred to the settlement conference. A petitioner may decline to participate in a settlement conference upon providing the board with written notice of its intent within five business days of receipt of the notice of the referral.

A settlement conference shall be held no later than 60 days from the date the board refers a case for settlement conference. The settlement officer must set the date, time and place for each conference, which includes virtual participation.

The bill requires each party to a settlement conference to maintain the confidentiality of the settlement conference and not rely on or introduce as evidence any views, admissions or proposals in any future administrative or judicial proceedings. A settlement conference may not be recorded in any manner. Settlement officers are required to not divulge confidential information disclosed by a party in the course of a settlement conference and return all confidential documents to parties within 30 days after the board accepts a settlement. A settlement officer shall not be compelled to testify or divulge confidential records in any administrative or judicial proceeding.

A settlement officer does not have the authority to impose a settlement on the parties but may make oral or written recommendations to parties privately or jointly. In the event a settlement of all or some of the issues in dispute is not resolved, a settlement officer may continue to communicate for a period not to exceed 30 days with the involved parties. If the parties to a settlement conference come to an agreement, then the parties shall present the terms of the settlement to the board for approval. If the parties cannot agree to a settlement, then the board shall proceed in accordance with its usual proceedings.

A settlement officer shall not be liable to any party for any error, act or omission in connection with any settlement conference, and parties to a settlement conference may not call a settlement officer as a witness in litigation or any other proceeding relating to the settlement conference.

This act shall take effect in 60 days.

FISCAL IMPACT:

According to the Pennsylvania Treasury Department, depending upon the annual number of appeals that would benefit from a settlement conference process, the total cost of Senate Bill 1051 will range from \$450,000 to \$500,000 annually.

The operational expenses of the board are provided by a separate line-item under the Treasury Department within the General Fund budget, as appropriated by the General Assembly. For the 2023-24 fiscal year, the annual appropriation is \$3.4 million.